

# **EXHIBIT 7**

**中华人民共和国民事诉讼法 ( 2021修正 )**  
**Civil Procedure Law of the People's Republic of China (Amended in 2021)**

发文机关 : 全国人民代表大会常务委员会 Promulgation Authorities: Standing Committee of the National People's Congress

发布日期 : 2021.12.24 Promulgation Date: 2021.12.24

生效日期 : 2022.01.01 Effective Date: 2022.01.01

时效性 : 现行有效 Validity Status: valid

中华人民共和国民事诉讼法	Civil Procedure Law of the People's Republic of China
	(Amended in 2021)

( 1991年4月9日第七届全国人民代表大会第四次会议通过 根据2007年10月28日第十届全国人民代表大会常务委员会第三十次会议《关于修改〈中华人民共和国民事诉讼法〉的决定》第一次修正 根据2012年8月31日第十一届全国人民代表大会常务委员会第二十八次会议《关于修改〈中华人民共和国民事诉讼法〉的决定》第二次修正 根据2017年6月27日第十二届全国人民代表大会常务委员会第二十八次会议《关于修改〈中华人民共和国民事诉讼法〉和〈中华人民共和国行政诉讼法〉的决定》第三次修正 根据2021年12月24日第十三届全国人民代表大会常务委员会第三十二次会议《关于修改〈中华人民共和国民事诉讼法〉的决定》第四次修正 )	(Adopted at the Fourth Session of the Seventh National People's Congress on April 9, 1991 , amended for the first time pursuant to the Decision on Amending the Civil Procedure Law of the People's Republic of China at the Thirtieth Session of the Standing Committee of the Tenth National People's Congress on October 28, 2007, amended for the second time pursuant to and the Decision on Amending the Civil Procedure Law of the People's Republic of China at the Twenty-eighth Session of the Standing Committee of the Eleventh National People's Congress on August 31, 2012, amended for the third time pursuant to the Decision on Amending the Civil Procedure Law of the People's Republic of China at the Twenty-eighth Session of the Standing Committee of the Twelfth National People's Congress on June 27, 2017, and amended for the fourth time pursuant to the Decision on Amending the Civil Procedure Law of the People's Republic of China at the Thirty-second Session of the Standing Committee of the Thirteenth National People's Congress on December 24, 2021)
--	--

第一编 总 则 第一章 任务、适用范围和基本原则	PART I GENERAL PRINCIPLES Chapter 1
-----------------------------	--

第一条 中华人民共和国民事诉	Tasks, Scope of Application and Basic Principles Article 1The Civil Procedure Law of the People's Republic of China
----------------	--

讼法以宪法为根据，结合我国民事审判工作的经验和实际情况制定。

**第二条 中华人民共和国民事诉讼法的任务，是保护当事人行使诉讼权利，保证人民法院查明事实，分清是非，正确适用法律，及时审理民事案件，确认民事权利义务关系，制裁民事违法行为，保护当事人的合法权益，教育公民自觉遵守法律，维护社会秩序、经济秩序，保障社会主义建设事业顺利进行。**

**第三条 人民法院受理公民之间、法人之间、其他组织之间以及他们相互之间因财产关系和人身关系提起的民事诉讼，适用本法的规定。**

**第四条 凡在中华人民共和国领域内进行民事诉讼，必须遵守本法。**

**第五条 外国人、无国籍人、外国企业和组织在人民法院起诉、应诉，同中华人民共和国公民、法人和其他组织有同等的诉讼权利义务。**

**外国法院对中华人民共和国公民、法人和其他组织的民事诉讼权利加以限制的，中华人民共和国人民法院对该国公民、企业和组织的民事诉讼权利，实行对等原则。**

**第六条 民事案件的审判权由人民法院行使。**

**人民法院依照法律规定对民事案件独立进行审判，不受行政机关、社会团体和个人的干涉。**

**第七条 人民法院审理民事案件，必须以事实为根据，以法律为准绳。**

**第八条 民事诉讼当事人有平等的诉讼权利。人民法院审理民事案件，应当保障和便利当事人行使诉讼权利，对当事人在适用法律上一律平等。**

**第九条 人民法院审理民事案件，应当根据自愿和合法的原则进行调解；调解不成的，应当及时判决。**

**第十条 人民法院审理民事案件，依照法律规定实行合议、回避、公开审判和两审终审制度。**

**第十一条 各民族公民都有用本民族语言、文字进行民事诉讼的权利。**

**在少数民族聚居或者多民族共同居住的地区，人民法院应当用当地民族通用的语言、文字进行审理和发布法律文书。**

**人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供**

is enacted based on the Constitution and taking into account the civil trial practice and experience and actual conditions in China.

Article 2The tasks of the Civil Procedure Law of the People's Republic of China are protection of the rights of litigants for exercise of litigation rights, ensuring ascertainment of facts and distinguishing between right and wrong by People's Courts, correct application of laws, prompt trial of civil cases, confirmation of civil rights and obligations, sanction of civil offences, protection of legitimate rights and interests of litigants, educating citizens to comply with the law voluntarily, safeguarding social order and economic order, safeguarding smooth establishment of socialism.

Article 3This Law shall apply to acceptance by People's Courts of civil lawsuits arising from property relationship and personal relationship between citizens, between legal persons, between other organisations, as well as mutually between the aforesaid groups.

Article 4Civil lawsuits within the territory of the People's Republic of China shall be in compliance with this Law.

Article 5Foreigners, stateless persons, foreign enterprises and organisations filing a lawsuit or responding to a lawsuit in a People's Court shall have equal litigation rights and obligations as citizens, legal persons and other organisations of the People's Republic of China. Where a foreign court restricts the civil litigation rights of citizens, legal persons and other organisations of the People's Republic of China, People's Courts of the People's Republic of China will implement the principle of reciprocity for civil litigation rights of citizens, enterprises and organisations of that country.

Article 6People's Courts may exercise the right to try civil cases. People's Courts shall try civil cases independently pursuant to the provisions of the law and shall not be interfered by administrative authorities, social bodies and individuals.

Article 7People's Courts shall try civil cases based on facts and with the law as the criterion.

Article 8Litigants of civil lawsuits have equal litigation rights. People's Courts trying civil cases shall ensure and facilitate exercise of litigation rights by litigants and treat all litigants equally in the application of law.

Article 9People's Courts trying civil cases shall carry out mediation pursuant to the principles of voluntary participation and legitimacy; where mediation is unsuccessful, the court shall promptly try and rule on the lawsuit.

Article 10People's Courts trying civil cases shall implement the system of collegiate bench, recusal, open trial and trial of second instance being final pursuant to the provisions of the law.

Article 11Citizens of all ethnic groups have the right to use their ethnic language and text in civil lawsuits. In regions inhabited by ethnic minorities or several ethnic groups, People's Courts shall use the common language and text of the local ethnic groups in trial of lawsuits and promulgation of legal documents.

People's Courts shall provide interpretation for participants in proceedings who are not proficient in the common language and text of the local ethnic groups.

翻译。

**第十二条** 人民法院审理民事案件时，当事人有权进行辩论。

**第十三条** 民事诉讼应当遵循诚信原则。

Article 12 When a People's Court tries a civil case, the litigants have the right to make argument.

Article 13 Civil lawsuits shall follow the principles of good faith. Litigants have the right to handle their civil rights and litigation rights within the scope stipulated by the law.

### 当事人有权在法律规定的范围内

处分自己的民事权利和诉讼权利。

**第十四条** 人民检察院有权对民事诉讼实行法律监督。

**第十五条** 机关、社会团体、企业事业单位对损害国家、集体或者个人民事权益的行为，可以支持受损害的单位或者个人向人民法院起诉。

**第十六条** 经当事人同意，民事诉讼活动可以通过信息网络平台在线进行。

Article 14 People's Procuratorates have the right to carry out legal supervision for civil lawsuits.

Article 15 Agencies, social bodies, enterprises and institutions may support aggrieved organisation(s) or individual(s) to file a lawsuit with a People's Court in respect of any act which harms State, collective or individual civil rights and interests.

Article 16 Upon consent of the parties concerned, civil litigation activities may be carried out online through information network platforms. Civil litigation activities carried out online through information network platforms shall have the same legal effect as offline litigation activities.

民事诉讼活动通过信息网络平台  
在线进行的，与线下诉讼活动具有同  
等法律效力。

**第十七条** 民族自治地方的人民代表大会根据宪法和本法的原则，结合当地民族的具体情况，可以制定变通或者补充的规定。自治区的规定，报全国人民代表大会常务委员会批准。自治州、自治县的规定，报省或者自治区的人民代表大会常务委员会批准，并报全国人民代表大会常务委员会备案。

Article 17 People's Congresses of autonomous areas may, pursuant to the principles of the Constitution and this Law, taking into account the specific circumstances of local ethnic groups, formulate modification or supplementary provisions. The provisions of autonomous regions shall be subject to approval by the Standing Committee of the National People's Congress. The provisions of autonomous prefectures and autonomous counties shall be subject to approval by the Standing Committee of the People's Congress of the province or autonomous region and filed with the Standing Committee of the National People's Congress for record.

## 第二章 管 辖

### 第一节 级别管辖

**第十八条** 基层人民法院管辖第一审民事案件，但本法另有规定的除外。

**第十九条** 中级人民法院管辖下列第一审民事案件：

Chapter 2 — Jurisdiction

Section 1 — Jurisdiction by Level

Article 18 Unless otherwise stipulated in this Law, grassroots People's Courts have jurisdiction over trial of first instance for civil cases.

Article 19 Intermediate People's Courts have jurisdiction over trial of first instance for the following civil cases: (1) Major foreign-related cases;

(一) 重大涉外案件；

(2) Cases which have a significant impact on their

(二) 在本辖区有重大影响的案  
件；

jurisdiction; and

(三) 最高人民法院确定由中级  
人民法院管辖的案件。

(3) Cases for which intermediate People's Courts have jurisdiction as determined by the Supreme People's Court.

**第二十条** 高级人民法院管辖在本辖区有重大影响的第一审民事案件。

Article 20 High People's Courts have jurisdiction over trial of first instance for civil cases which have a significant impact on their jurisdiction.

**第二十一条** 最高人民法院管辖下列第一审民事案件：

Article 21 The Supreme People's Court has jurisdiction over trial of first instance for the following civil cases: (1) Cases which have a significant impact nationwide; and

(一) 在全国有重大影响的案  
件；

(2) Cases for which the Supreme People's Court deemed that it should try.

(二) 认为应当由本院审理的案

件。

**第二节 地域管辖**

**第二十二条** 对公民提起的民事诉讼，由被告住所地人民法院管辖；被告住所地与经常居住地不一致的，由经常居住地人民法院管辖。

**对法人或者其他组织提起的民事诉讼**，由被告住所地人民法院管辖。

**同一诉讼的几个被告住所地、经常居住地在两个以上人民法院辖区的**，各该人民法院都有管辖权。

**第二十三条** 下列民事诉讼，由原告住所地人民法院管辖；原告住所地与经常居住地不一致的，由原告经常居住地人民法院管辖：

**(一) 对不在中华人民共和国领域内居住的人提起的有关身份关系的诉讼；**

**(二) 对下落不明或者宣告失踪的人提起的有关身份关系的诉讼；**

**(三) 对被采取强制性教育措施的人提起的诉讼；**

**(四) 对被监禁的人提起的诉讼。**

**第二十四条** 因合同纠纷提起的诉讼，由被告住所地或者合同履行地人民法院管辖。

**第二十五条** 因保险合同纠纷提起的诉讼，由被告住所地或者保险标的物所在地人民法院管辖。

**第二十六条** 因票据纠纷提起的诉讼，由票据支付地或者被告住所地人民法院管辖。

**第二十七条** 因公司设立、确认股东资格、分配利润、解散等纠纷提起的诉讼，由公司住所地人民法院管辖。

**第二十八条** 因铁路、公路、水上、航空运输和联合运输合同纠纷提起的诉讼，由运输始发地、目的地或者被告住所地人民法院管辖。

**第二十九条** 因侵权行为提起的诉讼，由侵权行为地或者被告住所地人民法院管辖。

**第三十条** 因铁路、公路、水上和航空事故请求损害赔偿提起的诉讼，由事故发生地或者车辆、船舶最先到达地、航空器最先降落地或者被告住所地人民法院管辖。

**第三十一条** 因船舶碰撞或者其

**Section 2 — Territorial Jurisdiction**

Article 22With respect to a civil lawsuit filed by a citizen, the People's Court at the location of the Defendant's domicile has jurisdiction; where the domicile and habitual residence of the Defendant are different, the People's Court at the location of habitual residence shall have jurisdiction. With respect to a civil lawsuit filed by a legal person or an organisation, the People's Court at the location of the Defendant's domicile shall have jurisdiction.

Where there are two or more locations of domicile and habitual residence of several Defendants in a lawsuit which fall under the jurisdictions of two or more People's Courts, all the People's Courts shall have jurisdiction.

Article 23The People's Court at the location of the Plaintiff's domicile has jurisdiction over the following civil lawsuits; where the domicile and habitual residence of the Plaintiff are different, the People's Court at the location of habitual residence of the Plaintiff shall have jurisdiction: (1) A lawsuit regarding identity relationship filed against a person who does not reside in the People's Republic of China;

(2) A lawsuit regarding identity relationship filed against a missing or declared missing person;

(3) A lawsuit filed against a person who is subject to mandatory education measures; and

(4) A lawsuit filed against a person under imprisonment.

Article 24With respect to a contract dispute lawsuit, the People's Court at the location of the Defendant's domicile or place of performance of contract shall have jurisdiction.

Article 25With respect to an insurance contract dispute lawsuit, the People's Court at the location of the Defendant's domicile or the insurance subject matter shall have jurisdiction.

Article 26With respect to a bill dispute lawsuit, the People's Court at the place of payment of bill or the Defendant's domicile shall have jurisdiction.

Article 27With respect to a lawsuit regarding a dispute over incorporation of company, confirmation of shareholder qualification, profit distribution, dissolution, etc., the People's Court at the company's domicile shall have jurisdiction.

Article 28With respect to a contract dispute lawsuit regarding railway, highway, maritime, air transport and combined transport, the People's Court at the place of origin and place of destination of transport or the Defendant's domicile shall have jurisdiction.

Article 29With respect to a tort lawsuit, the People's Court at the place of occurrence of tortious act or the Defendant's domicile shall have jurisdiction.

Article 30With respect to a lawsuit regarding claim of damages in a railway, highway, maritime and aviation accident, the People's Court at the place of occurrence of accident or the place of first arrival of vehicle or vessel, place of first landing of aircraft or the Defendant's domicile shall have jurisdiction.

Article 31With respect to a lawsuit regarding claim of damages in a

他海事损害事故请求损害赔偿提起的诉讼，由碰撞发生地、碰撞船舶最先到达地、加害船舶被扣留地或者被告住所地人民法院管辖。

**第三十二条** 因海难救助费用提起的诉讼，由救助地或者被救助船舶最先到达地人民法院管辖。

**第三十三条** 因共同海损提起的诉讼，由船舶最先到达地、共同海损理算地或者航程终止地的人民法院管辖。

**第三十四条** 下列案件，由本条规定的人民法院专属管辖：

(一) 因不动产纠纷提起的诉讼，由不动产所在地人民法院管辖；

(二) 因港口作业中发生纠纷提起的诉讼，由港口所在地人民法院管辖；

(三) 因继承遗产纠纷提起的诉讼，由被继承人死亡时住所地或者主要遗产所在地人民法院管辖。

**第三十五条** 合同或者其他财产权益纠纷的当事人可以书面协议选择被告住所地、合同履行地、合同签订地、原告住所地、标的物所在地等与争议有实际联系的地点的人民法院管辖，但不得违反本法对级别管辖和专属管辖的规定。

**第三十六条** 两个以上人民法院都有管辖权的诉讼，原告可以向其中一个人民法院起诉；原告向两个以上有管辖权的人民法院起诉的，由最先立案的人民法院管辖。

### 第三节 移送管辖和指定管辖

**第三十七条** 人民法院发现受理的案件不属于本院管辖的，应当移送有管辖权的人民法院，受移送的人民法院应当受理。受移送的人民法院认为受移送的案件依照规定不属于本院管辖的，应当报请上级人民法院指定管辖，不得再自行移送。

**第三十八条** 有管辖权的人民法院由于特殊原因，不能行使管辖权的，由上级人民法院指定管辖。

人民法院之间因管辖权发生争议，由争议双方协商解决；协商解决不了的，报请它们的共同上级人民法院指定管辖。

**第三十九条** 上级人民法院有权审理下级人民法院管辖的第一审民事案件；确有必要将本院管辖的第一审民事案件交下级人民法院审理的，应当报请其上级人民法院批准。

vessel collision or other maritime injury accident, the People's Court at the place of occurrence of collision, the place of first arrival of the collided vessel, place of detention of the colliding vessel or the Defendant's domicile shall have jurisdiction.

Article 32 With respect to a lawsuit regarding maritime salvage expenses, the People's Court at the place of salvage or the place of first arrival of the salvaged vessel shall have jurisdiction.

Article 33 With respect to a lawsuit regarding common averages, the People's Court at the place of first arrival of the vessel, the place of adjustment of common averages or the place of termination of voyage shall have jurisdiction.

Article 34 People's Courts stipulated in this Article shall have exclusive jurisdiction for the following cases: (1) With respect to a real estate dispute lawsuit, the People's Court at the location of the real estate has jurisdiction;

(2) With respect to a lawsuit regarding a dispute arising in port operations, the People's Court at the location of the port has jurisdiction; and

(3) With respect to an inheritance dispute lawsuit, the People's Court at the decedent's domicile at the time of death or the location of the main legacy has jurisdiction.

Article 35 The litigants of a contract dispute or other property rights dispute may agree in writing on selection of the People's Court at the location of the Defendant's domicile, place of performance of contract, place of execution of contract, address of the Plaintiff, location of the subject matter, etc. or a venue which has actual connection with the dispute to be the People's Court which has jurisdiction, but shall not violate the provisions hereof on grade jurisdiction and exclusive jurisdiction.

Article 36 With respect to a lawsuit for which two or more People's Courts have jurisdiction, the Plaintiff may file a lawsuit with any of the People's Courts; where the Plaintiff has filed a lawsuit with two or more People's Courts with jurisdiction, the People's Court which has filed the case first shall have jurisdiction.

### Section 3 — Referral and Designation of Jurisdiction

Article 37 Where a People's Court becomes aware that a case it has accepted does not fall under its jurisdiction, the case shall be referred to the People's Court with jurisdiction, the People's Court to which the case is referred shall accept the case. Where the case being referred is deemed by the People's Court to which the case is referred to not fall under its jurisdiction pursuant to the provisions, it shall request the higher-level People's Court to designate jurisdiction, and no further referral is allowed.

Article 38 Where a People's Court with jurisdiction is unable to exercise jurisdiction due to a special reason, the higher-level People's Court shall designate jurisdiction. Where there is a dispute over jurisdiction between People's Courts, the dispute parties shall negotiate and resolve the dispute; where negotiation is unsuccessful, the People's Courts shall request their common higher-level People's Court to designate jurisdiction.

Article 39 The higher-level People's Court shall have the right to try civil cases for which its lower-level People's Court has jurisdiction over trial of first instance; where it is genuinely necessary for a People's Court to pass a civil case for which it has jurisdiction over trial of first instance to a lower-level People's Court for trial, the

下级人民法院对它所管辖的第一审民事案件，认为需要由上级人民法院审理的，可以报请上级人民法院审理。

### 第三章 审判组织

**第四十条** 人民法院审理第一审民事案件，由审判员、陪审员共同组成合议庭或者由审判员组成合议庭。合议庭的成员人数，必须是单数。

适用简易程序审理的民事案件，由审判员一人独任审理。基层人民法院审理的基本事实清楚、权利义务关系明确的第一审民事案件，可以由审判员一人适用普通程序独任审理。

陪审员在执行陪审职务时，与审判员有同等的权利义务。

**第四十一条** 人民法院审理第二审民事案件，由审判员组成合议庭。合议庭的成员人数，必须是单数。

中级人民法院对第一审适用简易程序审结或者不服裁定提起上诉的第二审民事案件，事实清楚、权利义务关系明确的，经双方当事人同意，可以由审判员一人独任审理。

发回重审的案件，原审人民法院应当按照第一审程序另行组成合议庭。

审理再审案件，原来是第一审的，按照第一审程序另行组成合议庭；原来是第二审的或者是上级人民法院提审的，按照第二审程序另行组成合议庭。

**第四十二条** 人民法院审理下列民事案件，不得由审判员一人独任审理：

(一) 涉及国家利益、社会公共利益的案件；

(二) 涉及群体性纠纷，可能影

People's Court shall obtain approval from its higher-level People's Court. Where the lower-level People's Court deems that it is necessary for the higher-level People's Court to try a civil case for which it has jurisdiction over trial of first instance, it may request the higher-level People's Court to try the case.

### Chapter 3 — Trial Organisation

**Article 40** With respect to trial of first instance of a civil case by a People's Court, the judges and the jurors shall jointly constitute a collegiate bench or the judges shall constitute a collegiate bench. The number of collegiate bench members shall be odd number. Civil cases to which summary procedures are applied shall be tried by a single judge alone. Civil cases of first instance with clear basic facts and explicit relationship of rights and obligations to be tried by grassroots people's courts may be tried by a single judge alone under ordinary procedures. Jurors performing jury duties shall have equal rights and obligations as judges.

**Article 41** With respect to trial of second instance of a civil case by a People's Court, the judges shall constitute a collegiate bench. The number of collegiate bench members shall be odd number. For a civil case of second instance with clear facts and explicit relationship of rights and obligations which is concluded in the first instance under summary procedures or a civil case of second instance where an appeal is made against a ruling, the intermediate people's court may have a single judge alone try it with consent of both parties concerned.

With respect to a remanded case, the People's Court which originally heard the case shall form a collegiate bench separately pursuant to the procedures for trial of first instance.

With respect to a re-trial of case, where the case was originally tried in the first instance, a collegiate bench shall be formed separately pursuant to the procedures for trial of first instance; where the case was originally tried in the second instance or arraigned by the higher-level People's Court, a collegiate bench shall be formed separately pursuant to the procedures for trial of second instance.

**Article 42** The following civil cases to be tried by a people's court shall not be tried by a single judge alone: (1) cases involving national interests or public interests;

(2) cases involving group disputes which may affect social stability;

响社会稳定的案件；

(3) cases which attract widespread public attention or have other significant social impact;

(三) 人民群众广泛关注或者其他社会影响较大的案件；

(4) cases of a new type or complex nature;

(四) 属于新类型或者疑难复杂的案件；

(5) cases for which the law stipulates that a collegial panel shall be formed for trial; and

(五) 法律规定应当组成合议庭审理的案件；

(6) other cases which are not appropriate to be tried by a single judge alone.

(六) 其他不宜由审判员一人独任审理的案件。

**第四十三条** 人民法院在审理过程中，发现案件不宜由审判员一人独任审理的，应当裁定转由合议庭审理。

Article 43 Where a People's Court discovers in the course of trial that a case is not appropriate to be tried by a single judge alone, it shall rule to refer the case to a collegial panel for trial. Where a litigant believes that trial of the case by a single judge alone violates the provisions of the law, it may raise an objection to the people's court. The People's Court shall examine the objection raised by the party. If the objection is tenable, the People's Court shall rule to refer the case to a collegial panel for trial; if the objection is untenable, the objection shall be rejected.

当事人认为案件由审判员一人独任审理违反法律规定的，可以向人民法院提出异议。人民法院对当事人提出的异议应当审查，异议成立的，裁定转由合议庭审理；异议不成立的，裁定驳回。

**第四十四条** 合议庭的审判长由院长或者庭长指定审判员一人担任；院长或者庭长参加审判的，由院长或者庭长担任。

Article 44 The president of the court or the judge appointed by the presiding judge shall act as the presiding judge of a collegiate bench; where the president of the court or the presiding judge participates in the trial, the president of the court or the presiding judge shall act as the presiding judge of a collegiate bench.

**第四十五条** 合议庭评议案件，实行少数服从多数的原则。评议应当制作笔录，由合议庭成员签名。评议中的不同意见，必须如实记入笔录。

Article 45 A collegiate bench deliberating a case shall implement the principle of majority rules. Minutes of deliberation shall be prepared, and members of the collegiate bench shall sign thereon. Different views in the deliberation shall be truthfully recorded in the minutes.

**第四十六条** 审判人员应当依法秉公办案。

Article 46 Judges shall try cases impartially pursuant to the law. Judges shall not accept treats or gifts from litigants and their agent ad litem.

审判人员不得接受当事人及其诉讼代理人请客送礼。

For judges guilty of accepting bribery and corruption, perverting the law, legal liability shall be pursued in accordance with the law; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

审判人员有贪污受贿，徇私舞弊，枉法裁判行为的，应当追究法律责任；构成犯罪的，依法追究刑事责任。

**第四章 回避**

**第四十七条** 审判人员有下列情形之一的，应当自行回避，当事人有权用口头或者书面方式申请他们回避：

Chapter 4 — Recusal  
Article 47 Under any of the following circumstances, a judge shall recuse himself/herself from the case voluntarily, and the litigants shall have the right to apply for recusal of a judge verbally or in writing: (1) The judge is a litigant of the case or a close relative of a litigant or an agent ad litem of the case;

(一) 是本案当事人或者当事

(二)与本案有利害关系的；

(三)与本案当事人、诉讼代理人有其他关系，可能影响对案件公正审理的。

审判人员接受当事人、诉讼代理人请客送礼，或者违反规定会见当事人、诉讼代理人的，当事人有权要求他们回避。

审判人员有前款规定的行为的，应当依法追究法律责任。

前三款规定，适用于书记员、翻译人员、鉴定人、勘验人。

**第四十八条** 当事人提出回避申请，应当说明理由，在案件开始审理时提出；回避事由在案件开始审理后知道的，也可以在法庭辩论终结前提出。

被申请回避的人员在人民法院作出是否回避的决定前，应当暂停参与本案的工作，但案件需要采取紧急措施的除外。

**第四十九条** 院长担任审判长或者独任审判员时的回避，由审判委员会决定；审判人员的回避，由院长决定；其他人员的回避，由审判长或者独任审判员决定。

**第五十条** 人民法院对当事人提出的回避申请，应当在申请提出的三日内，以口头或者书面形式作出决定。申请人对决定不服的，可以在接到决定时申请复议一次。复议期间，被申请回避的人员，不停止参与本案的工作。人民法院对复议申请，应当在三日内作出复议决定，并通知复议申请人。

## 第五章 诉讼参加人

### 第一节 当事人

**第五十一条** 公民、法人和其他组织可以作为民事诉讼的当事人。

法人由其法定代表人进行诉讼。

其他组织由其主要负责人进行诉讼。

**第五十二条** 当事人有权委托代理人，提出回避申请，收集、提供证据，进行辩论，请求调解，提起上诉，申请执行。

(3) The judge is otherwise related to a litigant or an agent ad litem of the case, which may influence a fair trial of the case.

Where a judge has accepted treats or gifts from a litigant or an agent ad litem or met with a litigant or an agent ad litem in violation of the provisions, the litigants have the right to request for recusal of the judge.

For judges which have committed any of the acts stipulated in the preceding paragraph, legal liability shall be pursued in accordance with the law.

The provisions of the preceding three paragraphs shall apply to court clerks, interpreters, expert witnesses and inspectors.

Article 48A litigant who applies for recusal of a judge shall state the reason, and makes the application at the time of commencement of trial of the case; where a litigant becomes aware of the fact for recusal upon commencement of trial of the case, the application for recusal may be made before the end of court debate. Before the People's Court makes a decision on recusal or non-recusal, the person for which an application for recusal is being made shall stop participating in the case, except where there is a need to adopt emergency measures for the case.

Article 49 Recusal of the president of the court who acts as the presiding judge or the sole judge shall be decided by the Adjudication Committee; recusal of a judge shall be decided by the president of the court; recusal of any other person shall be decided by the presiding judge or the sole judge.

Article 50A People's Court shall make a decision verbally or in writing within three days from the date of the application for recusal made by a litigant. Where the applicant disagrees with the decision, an application for review may be submitted at the time of receipt of the decision. During the review period, the person for which the application for recusal is being made shall not stop participating in the case. The People's Court shall make a review decision within three days from the application for review and notify the review applicant.

Chapter 5 — Participants in Proceedings

Section 1 — Litigants

Article 51 Citizens, legal persons and other organisations may act as litigants in civil lawsuits. Legal persons are litigated by their legal representatives. Other organizations are litigated by their principal officers.

Article 52 Litigants shall have the right to appoint an agent, submit an application for recusal, gather and provide evidence, participate in debate, request for mediation, submit an appeal, apply for enforcement. A litigant may inspect the relevant materials of the case and make copies of the relevant materials and legal

当事人可以查阅本案有关材料，并可以复制本案有关材料和法律文书。查阅、复制本案有关材料的范围和办法由最高人民法院规定。

当事人必须依法行使诉讼权利，遵守诉讼秩序，履行发生法律效力的判决书、裁定书和调解书。

**第五十三条** 双方当事人可以自行和解。

**第五十四条** 原告可以放弃或者变更诉讼请求。被告可以承认或者反驳诉讼请求，有权提起反诉。

**第五十五条** 当事人一方或者双方为二人以上，其诉讼标的是共同的，或者诉讼标的是同一种类、人民法院认为可以合并审理并经当事人同意的，为共同诉讼。

共同诉讼的一方当事人对诉讼标的有共同权利义务的，其中一人的诉讼行为经其他共同诉讼人承认，对其他共同诉讼人发生效力；对诉讼标的没有共同权利义务的，其中一人的诉讼行为对其他共同诉讼人不发生效力。

**第五十六条** 当事人一方人数众多的共同诉讼，可以由当事人推选代表人进行诉讼。代表人的诉讼行为对其所代表的当事人发生效力，但代表人变更、放弃诉讼请求或者承认对方当事人的诉讼请求，进行和解，必须经被代表的当事人同意。

**第五十七条** 诉讼标的是同一种类、当事人一方人数众多在起诉时人数尚未确定的，人民法院可以发出公告，说明案件情况和诉讼请求，通知权利人在一定期间向人民法院登记。

向人民法院登记的权利人可以推选代表人进行诉讼；推选不出代表人的，人民法院可以与参加登记的权利人商定代表人。

代表人的诉讼行为对其所代表的当事人发生效力，但代表人变更、放弃诉讼请求或者承认对方当事人的诉讼请求，进行和解，必须经被代表的当事人同意。

documents of the case. The scope and methods for inspection and replication of the relevant materials of cases shall be stipulated by the Supreme People's Court.

A litigant shall exercise litigation rights pursuant to the law, comply with the order of litigation, perform the judgment letter, ruling document or mediation document which has taken legal effect.

**Article 53B**The litigants can settle on their own.

**Article 54A** Plaintiff may waive or amend a claim. The Defendant may acknowledge or refute a claim and has the right to file a counterclaim.

**Article 55**Where a party or both parties to a lawsuit comprise(s) two or more persons, and the subject matter of litigation is common, or the subject matters of litigation are the same type, the People's Court deemed that the lawsuit may be tried as a joint action, the Court may try the lawsuit as a joint action upon consent by the litigants. Where a party to a joint action has common rights and obligations pertaining to the subject matter of litigation, where the litigation actions of one litigant are acknowledged by the other joint litigant(s), the actions shall be binding upon the other joint litigant(s); where there is no common rights and obligations pertaining to the subject matter of litigation, the litigation actions of one litigant shall not be binding upon the other joint litigant(s).

**Article 56**With respect to a joint action where there are multiple persons comprising one party to the lawsuit, the litigants may elect a representative to participate in the proceedings. The litigation actions of the representative shall be binding upon the litigants he/she represents; for change of representative, waiver of the claims of the action or confirmation of the claims of the counterparty litigants, settlement, the consent by the litigants he/she represents is required.

**Article 57**Where the subject matter of litigation is common, there are multiple persons comprising one party to the lawsuit but the number of persons is not confirmed at the time of filing of lawsuit, the People's Court may issue a public announcement, stating the facts of the case and the claims, and notify the rights holders to register with the People's Court within a stipulated period. Rights holders registered with the People's Court may elect a representative to participate in the proceedings; where a representative is not elected, the People's Court may discuss with the registered rights holders to appoint a representative.

The litigation actions of the representative shall be binding upon the litigants he/she represents; for change of representative, waiver of the claims of the action or confirmation of the claims of the counterparty litigants, settlement, the consent of the litigants he/she represents is required.

The judgment or ruling made by the People's Court shall be

人民法院作出的判决、裁定，对参加登记的全体权利人发生效力。未参加登记的权利人在诉讼时效期间提起诉讼的，适用该判决、裁定。

**第五十八条** 对污染环境、侵害众多消费者合法权益等损害社会公共利益的行为，法律规定的机关和有关组织可以向人民法院提起诉讼。

人民检察院在履行职责中发现破坏生态环境和资源保护、食品药品安全领域侵害众多消费者合法权益等损害社会公共利益的行为，在没有前款规定的机关和组织或者前款规定的机关和组织不提起诉讼的情况下，可以向人民法院提起诉讼。前款规定的机关或者组织提起诉讼的，人民检察院可以支持起诉。

**第五十九条** 对当事人双方的诉讼标的，第三人认为有独立请求权的，有权提起诉讼。

对当事人双方的诉讼标的，第三人虽然没有独立请求权，但案件处理结果同他有法律上的利害关系的，可以申请参加诉讼，或者由人民法院通知他参加诉讼。人民法院判决承担民事责任的第三人，有当事人的诉讼权利义务。

前两款规定的第三人，因不能归责于本人的事由未参加诉讼，但有证据证明发生法律效力的判决、裁定、调解书的部分或者全部内容错误，损害其民事权益的，可以自知道或者应当知道其民事权益受到损害之日起六个月内，向作出该判决、裁定、调解书的人民法院提起诉讼。人民法院经审理，诉讼请求成立的，应当改变或者撤销原判决、裁定、调解书；诉讼请求不成立的，驳回诉讼请求。

## 第二节 诉讼代理人

binding upon all the registered rights holders. The said judgment or ruling shall apply to unregistered rights holders who have filed a lawsuit within the limitation of action.

Article 58For acts which harm public interest such as environmental pollution, infringement of the legitimate rights and interests of multiple consumers, etc., the authorities stipulated by the law and the relevant organisations may file a lawsuit with a People's Court.

Where a People's Procuratorate discovers in the course of performing its duties any act which compromises public interests, such as damage to the ecological environment and resource protection, infringement upon the legitimate rights and interests of multiple consumers in terms of food and drug safety, in the absence of the authorities or organisations mentioned in the preceding paragraph or where the authorities or organisations mentioned in the preceding paragraph do not file a lawsuit, the people's procuratorate may file a lawsuit with a People's Court. If the authorities or organisations mentioned in the preceding paragraph have filed a lawsuit, the People's Procuratorate may support the lawsuit.

Article 59Where a third party deemed that it has independent right of claim to a subject matter of litigation between two parties concerned, the third party shall have the right to file a lawsuit. Where a third party does not have independent right of claim to a subject matter of litigation between two parties concerned, but it has legal stake in the handling outcome of the case, it may apply to participate in the proceedings, or the People's Court may notify the third party to participate in the proceedings. A third party ruled by a People's Court to bear civil liability shall have the litigation rights and obligations of a litigant.

Where a third party stipulated in the two preceding paragraphs cannot participate in the proceedings due to a reason not attributable to him/her, but there is evidence to prove that part or all of the contents of the judgment, ruling or mediation document which has taken legal effect is wrong and harm(s) his/her civil rights and interests, he/she may file a lawsuit with the People's Court which has issued the said judgment, ruling or mediation document within six months from the date on which he/she becomes aware or should have become aware that his/her civil rights and interests are harmed. After the People's Court has tried the lawsuit and held that the claim is justified, the People's Court shall amend or revoke the original judgment, ruling or mediation document; where the claim is groundless, the claim shall be rejected.

## Section 2 — Agent Ad Litem

第六十条 无诉讼行为能力人由他的监护人作为法定代理人代为诉讼。法定代理人之间互相推诿代理责任的，由人民法院指定其中一人代为诉讼。

第六十一条 当事人、法定代理人可以委托一至二人作为诉讼代理人。

下列人员可以被委托为诉讼代理人：

(一) 律师、基层法律服务工作者；

(二) 当事人的近亲属或者工作人员；

(三) 当事人所在社区、单位以及有关社会团体推荐的公民。

第六十二条 委托他人代为诉讼，必须向人民法院提交由委托人签名或者盖章的授权委托书。

授权委托书必须记明委托事项和权限。诉讼代理人代为承认、放弃、变更诉讼请求，进行和解，提起反诉或者上诉，必须有委托人的特别授权。

侨居在国外的中华人民共和国公民从国外寄交或者托交的授权委托书，必须经中华人民共和国驻该国的使领馆证明；没有使领馆的，由与中华人民共和国有外交关系的第三国驻该国的使领馆证明，再转由中华人民共和国驻该第三国使领馆证明，或者由当地的爱国华侨团体证明。

第六十三条 诉讼代理人的权限如果变更或者解除，当事人应当书面告知人民法院，并由人民法院通知对方当事人。

第六十四条 代理诉讼的律师和其他诉讼代理人有权调查收集证据，可以查阅本案有关材料。查阅本案有关材料的范围和办法由最高人民法院规定。

第六十五条 离婚案件有诉讼代理人的，本人除不能表达意思的以外，仍应出庭；确因特殊情况无法出庭的，必须向人民法院提交书面意见。

Article 60For a person with no capacity for litigation action, his/her guardians shall act as his/her legal representatives to participate in the proceedings. Where the legal representatives try to shirk responsibilities, the People's Court shall appoint one of them to participate in the proceedings.

Article 61A litigant or a legal representative may entrust one to two persons as his/her agent ad litem. The following persons may be entrusted as an agent ad litem:

(1) Lawyers, grassroots legal service workers;

(2) Close relatives or employees of a litigant; and

(3) Citizens recommended by the community, employer of a litigant and the relevant social bodies.

Article 62Where a person is entrusted to participate in the proceedings, a power of attorney signed or sealed by the principal shall be submitted to the People's Court. The power of attorney shall state the entrustment matter and limit of authority. An agent ad litem shall be specifically authorised by the principal for confirmation, waiver or amendment of claim, settlement, filing of counterclaim or appeal.

A power of attorney mailed from overseas by or submitted on behalf of a citizen of the People's Republic of China living abroad shall be authenticated by the embassy or consulate of the People's Republic of China based in that country; where there is no embassy or consulate, the power of attorney shall be authenticated by the embassy or consulate of a third country which has diplomatic relations with the People's Republic of China based in that country, and then authenticated by the embassy or consulate of the People's Republic of China based in that third country, or authenticated by a patriotic overseas Chinese organisation of that locality.

Article 63Where there is change or revocation of the limit of authority of an agent ad litem, the litigant shall notify the People's Court in writing, and the People's Court shall notify the counterparty litigant.

Article 64Lawyers acting as agents ad litem and other agents ad litem shall have the right to investigate and gather evidence, and may inspect the relevant materials of the case. The scope and methods for inspection of the relevant materials of a case shall be stipulated by the Supreme People's Court.

Article 65Where an agent ad litem is appointed for a divorce case, the principal shall be present in court, unless he/she is unable to express him/her meaning; where the principal is unable to be present in court due to special circumstances, he/she shall submit a

## 第六章 证据

第六十六条 证据包括：

Chapter 6 — Evidence

Article 66Evidence shall include: (1) Statements of litigants;

(一) 当事人的陈述； (2) Documentary evidence;

(二) 书证； (3) Physical evidence;

(三) 物证； (4) Audio-visual materials;

(四) 视听资料； (5) Electronic data;

(五) 电子数据； (6) Witness testimony;

(六) 证人证言； (7) Expert opinions; and

(七) 鉴定意见； (8) Inquest records.

(八) 勘验笔录。

Evidence must be verified to be true before it can be used as the basis for ascertainment of facts.

## 证据必须查证属实，才能作为认

## 定事实的根据。

第六十七条 当事人对自己提出的主张，有责任提供证据。

Article 67Litigants have the burden of proof for the claims they make. Where a litigant and his/her/its agent ad litem are unable to gather evidence on their own due to objective reason, or With respect to the evidence deemed by the People's Court to be necessary for trial of case, the People's Court shall investigate and gather the evidence.

当事人及其诉讼代理人因客观原因不能自行收集的证据，或者人民法院认为审理案件需要的证据，人民法院应当调查收集。

A People's Court shall examine and verify evidence comprehensively and objectively in accordance with statutory procedures.

人民法院应当按照法定程序，全  
面地、客观地审查核实证据。

第六十八条 当事人对自己提出的主张应当及时提供证据。

Article 68Litigants shall promptly provide evidence for the claims they make. A People's Court shall determine the evidence to be provided by a litigant and the deadline thereof pursuant to the litigant's assertion and the status of trial of case. Where it is genuinely difficult for the litigant to provide evidence by the deadline, the litigant may apply to the People's Court for an extension of time, the People's Court shall grant an appropriate extension based on the litigant's application. Where the litigant provides evidence after the deadline, the People's Court shall order the litigant to state the reason; where the litigant refuses to state the reason or the reason is groundless, the People's Court may decide on non-admission of the evidence based on different circumstances, or decide on admission of the evidence but impose a warning or fine.

人民法院根据当事人的主张和案  
件审理情况，确定当事人应当提供的  
证据及其期限。当事人在该期限内提  
供证据确有困难的，可以向人民法院  
申请延长期限，人民法院根据当事人的  
申请适当延长。当事人逾期提供证  
据的，人民法院应当责令其说明理  
由；拒不说明理由或者理由不成立  
的，人民法院根据不同情形可以不予  
采纳该证据，或者采纳该证据但予以  
训诫、罚款。

第六十九条 人民法院收到当事人提交的证据材料，应当出具收据，写明证据名称、页数、份数、原件或者复印件以及收到时间等，并由经办人员签名或者盖章。

第七十条 人民法院有权向有关单位和个人调查取证，有关单位和个人不得拒绝。

人民法院对有关单位和个人提出的证明文书，应当辨别真伪，审查确定其效力。

第七十一条 证据应当在法庭上出示，并由当事人互相质证。对涉及国家秘密、商业秘密和个人隐私的证据应当保密，需要在法庭出示的，不得在公开开庭时出示。

第七十二条 经过法定程序公证证明的法律事实和文书，人民法院应当作为认定事实的根据，但有相反证据足以推翻公证证明的除外。

第七十三条 书证应当提交原件。物证应当提交原物。提交原件或者原物确有困难的，可以提交复制品、照片、副本、节录本。

提交外文书证，必须附有中文译本。

第七十四条 人民法院对视听资料，应当辨别真伪，并结合本案的其他证据，审查确定能否作为认定事实的根据。

第七十五条 凡是知道案件情况的单位和个人，都有义务出庭作证。有关单位的负责人应当支持证人作证。

不能正确表达意思的人，不能作证。

第七十六条 经人民法院通知，证人应当出庭作证。有下列情形之一的，经人民法院许可，可以通过书面证言、视听传输技术或者视听资料等方式作证：

(一) 因健康原因不能出庭的；

(二) 因路途遥远，交通不便不能出庭的；

(三) 因自然灾害等不可抗力不能出庭的；

(四) 其他有正当理由不能出庭的。

第七十七条 证人因履行出庭作证义务而支出的交通、住宿、就餐等必要费用以及误工损失，由败诉一方当事人负

Article 69A People's Court shall issue a receipt for evidential materials submitted by a litigant, stating the description of the evidence, number of pages, number of copies, original copy or photocopy and time of receipt, etc., and the receipt shall be signed or sealed by the handling officer.

Article 70People's Courts shall have the right to investigate into and gather evidence from the relevant organisations and individuals, the relevant organisations and individuals shall not refuse. People's Courts shall verify the authenticity of proof documents presented by the relevant organisations and individuals and examine and determine the validity.

Article 71Evidence shall be presented in the courtroom and be subject to cross-examination by the litigants. Evidence which involves State secrets, commercial secrets and personal privacy shall be kept confidential, and shall not be presented at open hearings when there is a need to present such evidence in the courtroom.

Article 72People's Courts shall use legal facts and documents notarised and authenticated through statutory procedures as the basis for ascertainment of facts, unless there is evidence to the contrary to invalidate the notarisation certificate.

Article 73Original copies of documentary evidence shall be submitted. Original physical evidence shall be submitted. Where there is genuine difficulty in submission of original copies of documentary evidence or original physical evidence, a replication, photograph, duplicate copy or extract may be submitted. With respect to documentary evidence in a foreign language, a Chinese translation shall be attached.

Article 74People's Courts shall verify the authenticity of audio-visual materials, taking into account other evidence of the case, to examine and determine whether the audio-visual materials may be used as the basis for ascertainment of facts.

Article 75Organisations and individuals that are aware of the facts of a case shall be obligated to testify in court. The persons-in-charge of the relevant organisations shall support testifying by the witnesses. Persons who are unable to express their meaning properly cannot testify.

Article 76Upon notification by a People's Court, a witness shall testify in court. Under any of the following circumstances, upon consent by the People's Court, a witness may testify by way of written testimony, audio-visual transmission technique or audio-visual materials, etc.: (1) The witness is unable to be present in court due to health reason;

(2) The witness is unable to be present in court due to long journey and inaccessibility;

(3) The witness is unable to be present in court due to force majeure such as natural disaster, etc.; or

(4) The witness is unable to be present in court due to any other proper reason.

Article 77The requisite transportation, accommodation and meal expenses incurred by a witness for performance of the obligation to testify in court and losses from absent from work shall be borne

担。当事人申请证人作证的，由该当事人先行垫付；当事人没有申请，人民法院通知证人作证的，由人民法院先行垫付。

by the litigant who lost in the lawsuit. Where a litigant applies for a witness to testify, the litigant shall make advance payment; where a litigant does not make an application and the People's Court notifies a witness to testify, the People's Court shall make advance payment.

**第七十八条** 人民法院对当事人的陈述，应当结合本案的其他证据，审查确定能否作为认定事实的根据。

Article 78A People's Court shall examine and determine whether a litigant's statement can be used as the basis for ascertainment of facts, taking into account other evidence of the case. Where a litigant refuses to give a statement, this shall have no impact on the People's Court's ascertainment of facts of the case based on evidence.

**当事人拒绝陈述的，不影响人民法院根据证据认定案件事实。**

**第七十九条** 当事人可以就查明事实的专门性问题向人民法院申请鉴定。当事人申请鉴定的，由双方当事人协商确定具备资格的鉴定人；协商不成的，由人民法院指定。

Article 79A litigant may apply to the People's Court for examination in respect of specialised issues pertaining to ascertainment of facts. Where a litigant applies for examination, both parties to the action shall discuss and appoint a qualified expert witness; where the discussion is unsuccessful, the People's Court shall appoint an expert witness. Where a litigant does not apply for examination, but the People's Court deemed that examination of specialised issues is necessary, the People's Court shall entrust a qualified expert witness to carry out examination.

**当事人未申请鉴定，人民法院对专门性问题认为需要鉴定的，应当委托具备资格的鉴定人进行鉴定。**

**第八十条** 鉴定人有权了解进行鉴定所需要的案件材料，必要时可以询问当事人、证人。

Article 80An expert witness shall have the right to understand the case materials necessary for examination and may interview the litigants and witnesses where necessary. An expert witness shall make a written examination opinion and sign or affix seal on the examination opinion.

**鉴定人应当提出书面鉴定意见，在鉴定书上签名或者盖章。**

**第八十一条** 当事人对鉴定意见有异议或者人民法院认为鉴定人有必要出庭的，鉴定人应当出庭作证。经人民法院通知，鉴定人拒不出庭作证的，鉴定意见不得作为认定事实的根据；支付鉴定费用的当事人可以要求返还鉴定费用。

Article 81Where a litigant disagrees with the examination opinion or the People's Court deemed that it is necessary for the expert witness to be present in court, the expert witness shall testify in court. Upon notification by the People's Court, where the expert witness refuses to testify in court, the examination opinion shall not be used as the basis for ascertainment of facts; a litigant who has paid for examination expenses may require a refund of the examination expenses.

**第八十二条** 当事人可以申请人民法院通知有专门知识的人出庭，就鉴定人作出的鉴定意见或者专业问题提出意见。

Article 82A litigant may apply to the People's Court to notify a person with special expertise to be present in court to give opinions on the examination opinion or a specialised issue of the expert witness.

**第八十三条** 勘验物证或者现场，勘验人必须出示人民法院的证件，并邀请当地基层组织或者当事人所在单位派人参加。当事人或者当事人的成年家属应当到场，拒不到场的，不影响勘验的进行。

Article 83An inspector who inspects physical evidence, or the premises shall present his/her People's Court credential, and invite the local grassroots organisation or the employer of a litigant to assign personnel to participate in the inspection. The litigant or an adult family member of the litigant shall be present; where the litigant or an adult family member of the litigant refuses to be present, the conduct of the inspection shall not be affected. The relevant organisations and individuals shall be obligated to protect the premises and assist in the inspection pursuant to the notice of the People's Court.

**有关单位和个人根据人民法院的通知，有义务保护现场，协助勘验工作。**

The inspector shall keep written record of the status and outcome of the inspection, and the inspector, the litigant and the invited participants shall sign or affix seal thereon.

**勘验人应当将勘验情况和结果制作笔录，由勘验人、当事人和被邀参加人签名或者盖章。**

Article 84Where the evidence may be lost, or it may be difficult to obtain the evidence in future, a litigant may apply to the People's Court for preservation of evidence during the proceedings, the People's Court may also voluntarily adopt preservation measures. Under urgent circumstances where the evidence may be lost or it may be difficult to obtain the evidence in future, an interested

**第八十四条** 在证据可能灭失或者以后难以取得的情况下，当事人可以在诉讼过程中向人民法院申请保全证据，人民法院也可以主动采取保全措施。

因情况紧急，在证据可能灭失或者以后难以取得的情况下，利害关系人可以在提起诉讼或者申请仲裁前向证据所在地、被申请人住所地或者对案件有管辖权的人民法院申请保全证据。

party may apply to the People's Court at the location of the evidence or the respondent's domicile or the People's Court which has jurisdiction for the case for preservation of evidence prior to filing of lawsuit or application for arbitration.

证据保全的其他程序，参照适用本法第九章保全的有关规定。

**第七章 期间、送达**  
**第一节 期间**  
第八十五条 期间包括法定期间和人民法院指定的期间。

期间以时、日、月、年计算。期间开始的时和日，不计算在期间内。

期间届满的最后一日是法定休假日的，以法定休假日后的第一日为期间届满的日期。

期间不包括在途时间，诉讼文书在期满前交邮的，不算过期。

第八十六条 当事人因不可抗拒的事由或者其他正当理由耽误期限的，在障碍消除后的十日内，可以申请顺延期限，是否准许，由人民法院决定。

**第二节 送达**  
第八十七条 送达诉讼文书必须有送达回证，由受送达人在送达回证上注明收到日期，签名或者盖章。

受送达人在送达回证上的签收日期为送达日期。

第八十八条 送达诉讼文书，应当直接送交受送达。受送达是公民的，本人不在交他的同住成年家属签收；受送达是法人或者其他组织的，应当由法人的法定代表人、其他组织的主要负责人或者该法人、组织负责收件的人签收；受送达有诉讼代理人的，可以送交其代理人签收；受送达已向人民法院指定代收人的，送交代收人签收。

受送达人的同住成年家属，法人或者其他组织的负责收件的人，诉讼代理人或者代收人在送达回证上签收的日期为送达日期。

第八十九条 受送达或者他的同住成年家属拒绝接收诉讼文书的，送达

Chapter 7 — Period and Service of Process

Section 1 — Period

Article 85Period shall include the statutory period and the period stipulated by the People's Court. Period shall be computed in hours, days, months and years. The time and date of commencement of the period shall be excluded from the period.

Where the last date of expiry of the period is a legal holiday, the first day following the legal holiday shall be the date of expiry of the period.

Transit time shall be excluded in the period, a litigation document mailed before the date of expiry shall not be deemed as overdue.

Article 86Where a litigant is unable to meet a deadline due to a force majeure event or any other proper reason, the litigant may apply for an extension of time within 10 days from elimination of the hindrance, the People's Court shall decide whether to grant an extension of time.

Section 2 — Service of Process

Article 87An acknowledgement of service is required for service of litigation documents, the party being served shall state the date of receipt and sign or affix seal on the acknowledgement of service. The date of service of process shall be the date of receipt acknowledgement stated on the acknowledgement of service by the party being served.

Article 88Litigation documents shall be served directly on the party being served. Where the party being served is a citizen, an adult family member living with him/her may acknowledge receipt of the documents served in his/her absence; where the party being served is a legal person or an organisation, the legal representative of the legal person or the key person-in-charge of the organisation or the person of the said legal person or the organisation responsible for receiving documents shall acknowledge receipt of the documents served; where the party being served has appointed an agent ad litem, the agent ad litem may acknowledge receipt of the documents served; where the party being served has notified the People's Court of assigning an agent to receive litigation documents, the agent shall acknowledge receipt of the documents served. The date of service of process shall be the date of receipt acknowledgement stated on the acknowledgement of service by an adult family member living with the party being served or the person of a legal person or an organisation responsible for receiving documents or an agent ad litem or an agent to receive litigation documents.

Article 89Where the party being served or the adult family member(s) living with him/her refuse(s) to receive the litigation

人可以邀请有关基层组织或者所在单位的代表到场，说明情况，在送达回证上记明拒收事由和日期，由送达人、见证人签名或者盖章，把诉讼文书留在受送达人的住所；也可以把诉讼文书留在受送达人的住所，并采用拍照、录像等方式记录送达过程，即视为送达。

**第九十条** 经受送达同意，人民法院可以采用能够确认其收悉的电子方式送达诉讼文书。通过电子方式送达的判决书、裁定书、调解书，受送达提出需要纸质文书的，人民法院应当提供。

采用前款方式送达的，以送达信息到达受送达特定系统的日期为送达日期。

**第九十一条** 直接送达诉讼文书有困难的，可以委托其他人民法院代为送达，或者邮寄送达。邮寄送达的，以回执上注明的收件日期为送达日期。

**第九十二条** 受送达是军人的，通过其所在部队团以上单位的政治机关转交。

**第九十三条** 受送达被监禁的，通过其所在监所转交。

受送达被采取强制性教育措施的，通过其所在强制性教育机构转交。

**第九十四条** 代为转交的机关、单位收到诉讼文书后，必须立即交受送达签收，以在送达回证上的签收日期，为送达日期。

**第九十五条** 受送达下落不明，或者用本节规定的其他方式无法送达的，公告送达。自发出公告之日起，经过三十日，即视为送达。

公告送达，应当在案卷中记明原因和经过。

#### 第八章 调解

**第九十六条** 人民法院审理民事案件，根据当事人自愿的原则，在事实清楚的基础上，分清是非，进行调解。

**第九十七条** 人民法院进行调解，可以由审判员一人主持，也可以由合议庭主持，并尽可能就地进行。

人民法院进行调解，可以用简便方式通知当事人、证人到庭。

**第九十八条** 人民法院进行调解，可以邀请有关单位和个人协助。被邀请的单位和个人，应当协助人民法院进行

documents, the person serving the documents may invite the relevant grassroots organisation or a representative of his/her employer to be present, explain the situation, state the facts and date for refusal of receipt on the acknowledgement of service, the person serving the documents and the witness shall sign or affix seal thereon and leave the litigation documents at the address of the party being served; or leave the litigation documents at the address of the party being served and record the service process by way of photography, video-recording, etc., and the litigation documents shall be deemed served.

Article 90 Upon consent of the party on whom litigation documents are to be served, the people's Court may adopt an electronic method of service of litigation documents the receipt of which can be acknowledged. For a judgment, ruling or mediation document served electronically, if the party requests for a hard copy thereof, the people's Court shall provide. Where the party is served by any means of service stipulated in the preceding paragraph, the date when the served information reach the specific system of the party being served shall be the service date.

**Article 91**Where there is difficulty in direct service of litigation documents, another People's Court may be entrusted to serve the documents on behalf, or the documents may be mailed. Where the service of process is made by way of mail, the date of service of process shall be the date of receipt stated on the acknowledgement of service.

Article 92Where the party being served is military personnel, the documents shall be served through the political organ at or above the regimental level of the unit to which he/she belongs.

Article 93Where the party being served is under imprisonment, the documents shall be served through the prison in which he/she is being confined. Where the party being served is subject to mandatory education measures, the documents shall be served through the mandatory educational institution in which he/she is confined.

Article 94Upon receipt of the litigation documents, the agency or unit which received the litigation documents on behalf shall forthwith pass the litigation documents to the party being served for acknowledgement of receipt, the date of service of process shall be the date of receipt acknowledgement stated on the acknowledgement of service.

Article 95 If the whereabouts of the person on whom the documents are to be served is unknown, or if the documents cannot be served by any other means prescribed in this section, the documents shall be served by public announcement, and shall be deemed to have been served thirty days after the announcement is made. Where the documents are served by way of a public announcement, the reason and process shall be stated in the case files.

#### Chapter 8 — Mediation

Article 96People's Courts shall carry out mediation in the trial of civil cases pursuant to the principle of voluntary participation by litigants, based on clear facts and distinction between right and wrong.

Article 97When a People's Court carries out mediation, the mediation may be presided by the judge or the collegiate bench and shall be carried out on the spot as far as possible. A People's Court carrying out mediation may adopt simple and convenient methods to notify litigants and witnesses to be present in court.

Article 98A People's Court carrying out mediation may invite the relevant organisations and individuals to assist. The invited organisations and individuals shall assist the People's Court to

调解。

**第九十九条** 调解达成协议，必须双方自愿，不得强迫。调解协议的内容不得违反法律规定。

**第一百条** 调解达成协议，人民法院应当制作调解书。调解书应当写明诉讼请求、案件的事实和调解结果。

调解书由审判人员、书记员署名，加盖人民法院印章，送达双方当事人。

调解书经双方当事人签收后，即具有法律效力。

**第一百零一条** 下列案件调解达成协议，人民法院可以不制作调解书：

- (一) 调解和好的离婚案件；
- (二) 调解维持收养关系的案件；
- (三) 能够即时履行的案件；
- (四) 其他不需要制作调解书的案件。

对不需要制作调解书的协议，应当记入笔录，由双方当事人、审判人员、书记员签名或者盖章后，即具有法律效力。

**第一百零二条** 调解未达成协议或者调解书送达前一方反悔的，人民法院应当及时判决。

#### 第九章 保全和先予执行

**第一百零三条** 人民法院对于可能因当事人一方的行为或者其他原因，使判决难以执行或者造成当事人其他损害的案件，根据对方当事人的申请，可以裁定对其财产进行保全、责令其作出一定行为或者禁止其作出一定行为；当事人没有提出申请的，人民法院在必要时也可以裁定采取保全措施。

人民法院采取保全措施，可以责令申请人提供担保，申请人不提供担保的，裁定驳回申请。

人民法院接受申请后，对情况紧急的，必须在四十八小时内作出裁

carry out mediation.

Article 99 An agreement reached through mediation shall be voluntary between both parties and shall not be coerced. The contents of a mediation agreement shall not violate the provisions of the law.

Article 100 When an agreement is reached through mediation, the People's Court shall prepare a mediation document. The mediation document shall state the claim(s), the facts of the case and the mediation outcome. A mediation document shall be signed by the judge(s) and the court clerk, be affixed with the People's Court's seal, and served on both parties to the lawsuit.

A mediation document shall come into legal effect upon acknowledgement of receipt by both parties to the lawsuit.

Article 101 In the event of an agreement reached through mediation for the following cases, the People's Court may not be required to prepare a mediation document: (1) Divorce cases in which the parties reconcile through mediation;

(2) Cases in which an adoptive relationship is maintained through mediation;

(3) Cases which can be forthwith performed; or

(4) Any other cases for which preparation of a mediation document is not required.

With respect to an agreement for which a mediation document is not required to be prepared, written records shall be kept, upon signature or affixation of seal by both parties to the lawsuit, the judge(s) and the court clerk, the agreement shall come into legal effect.

Article 102 Where an agreement is not reached after mediation or either party renege prior to service of the mediation document, the People's Court shall promptly make a judgment.

#### Chapter 9 — Preservation and Prior Enforcement

Article 103 For cases in which the action of a party to the lawsuit or any other reason causes difficulty in enforcement of a judgment or causes other harm to the litigants, a People's Court may, pursuant to an application by a counterparty litigant, rule on preservation of its property or order the counterparty to undertake certain acts or prohibit the counterparty to undertake certain acts; where the litigants do not make an application, a People's Court may rule that preservation measures be adopted where necessary. A People's Court adopting preservation measures may order the applicant to provide guarantee, where the applicant does not provide guarantee, the People's Court shall rule that the application be rejected.

Upon acceptance of an application, the People's Court shall make a ruling within 48 hours under urgent circumstances; where the People's Court rules that preservation measures

定；裁定采取保全措施的，应当立即

开始执行。

**第一百零四条** 利害关系人因情况紧急，不立即申请保全将会使其合法权益受到难以弥补的损害的，可以在提起诉讼或者申请仲裁前向被保全财产所在地、被申请人住所地或者对案件有管辖权的人民法院申请采取保全措施。申请人应当提供担保，不提供担保的，裁定驳回申请。

人民法院接受申请后，必须在四十八小时内作出裁定；裁定采取保全措施的，应当立即开始执行。

申请人在人民法院采取保全措施后三十日内不依法提起诉讼或者申请仲裁的，人民法院应当解除保全。

**第一百零五条** 保全限于请求的范围，或者与本案有关的财物。

**第一百零六条** 财产保全采取查封、扣押、冻结或者法律规定的其他方法。人民法院保全财产后，应当立即通知被保全财产的人。

财产已被查封、冻结的，不得重复查封、冻结。

**第一百零七条** 财产纠纷案件，被申请人提供担保的，人民法院应当裁定解除保全。

**第一百零八条** 申请有错误的，申请人应当赔偿被申请人因保全所遭受的损失。

**第一百零九条** 人民法院对下列案件，根据当事人的申请，可以裁定先予执行：

(一) 追索赡养费、扶养费、抚养费、抚恤金、医疗费用的；

(二) 追索劳动报酬的；

(三) 因情况紧急需要先予执行的。

**第一百一十条** 人民法院裁定先予执行的，应当符合下列条件：

(一) 当事人之间权利义务关系明确，不先予执行将严重影响申请人的生活或者生产经营的；

(二) 被申请人有履行能力。

Article 104 In the event of urgent circumstances where the legitimate rights and interests of an interested party will be subject to irreparable damages if the interested party does not forthwith apply for preservation, the interested party may, prior to filing of lawsuit or application for arbitration, apply to the People's Court at the location of the properties to be preserved or the respondent's domicile or a People's Court which has jurisdiction for the case for adoption of preservation measures. The applicant shall provide guarantee, where the applicant does not provide guarantee, the People's Court shall rule that the application be rejected. Upon acceptance by an application, the People's Court shall make a ruling within 48 hours; where the People's Court rules that preservation measures shall be adopted, the ruling shall be forthwith enforced.

Where the applicant failed to file a lawsuit or apply for arbitration pursuant to the law within 30 days from adoption of preservation measures by the People's Court, the People's Court shall lift the preservation.

Article 105 Preservation shall be limited to the scope of the request or the properties related to the case.

Article 106 Preservation of properties shall adopt seizure, confiscation, freezing or any other method stipulated by the law. Upon preservation of properties, the People's Court shall forthwith notify the party whose properties are being preserved. Where the properties are seized or frozen, the properties shall not be subject to seizure or freezing again.

Article 107 Where the respondent of a property dispute case provides guarantee, the People's Court shall rule that preservation be lifted.

Article 108 Where there is an error in an application, the applicant shall compensate the respondent for losses incurred from the preservation.

Article 109 A People's Court may rule on prior enforcement pursuant to an application of a litigant for the following cases: (1) Recourse of alimony, payment of maintenance, payment of upbringing, pension, medical fees, etc.;

(2) Recourse of labour remuneration; or

(3) There is a need for prior enforcement under urgent circumstances.

Article 110 The following criteria shall be satisfied for ruling of prior enforcement by a People's Court: (1) The rights and obligations relationship between the litigants is clear, failure to grant prior enforcement shall have a serious impact on the applicant's livelihood or manufacturing and business activities; and

(2) The respondent has the capacity for performance.

The People's Court may order the applicant to provide

人民法院可以责令申请人提供担保，申请人不提供担保的，驳回申请。申请人败诉的，应当赔偿被申请人因先予执行遭受的财产损失。

**第一百一十一条** 当事人对保全或者先予执行的裁定不服的，可以申请复议一次。复议期间不停止裁定的执行。

#### 第十章 对妨害民事诉讼的强制措施

**第一百一十二条** 人民法院对必须到庭的被告，经两次传票传唤，无正当理由拒不到庭的，可以拘传。

**第一百一十三条** 诉讼参与人和其他人应当遵守法庭规则。

人民法院对违反法庭规则的人，可以予以训诫，责令退出法庭或者予以罚款、拘留。

人民法院对哄闹、冲击法庭，侮辱、诽谤、威胁、殴打审判人员，严重扰乱法庭秩序的人，依法追究刑事责任；情节较轻的，予以罚款、拘留。

**第一百一十四条** 诉讼参与人或者其他有下列行为之一的，人民法院可以根据情节轻重予以罚款、拘留；构成犯罪的，依法追究刑事责任：

(一) 伪造、毁灭重要证据，妨碍人民法院审理案件的；

(二) 以暴力、威胁、贿买方法阻止证人作证或者指使、贿买、胁迫他人作伪证的；

(三) 隐藏、转移、变卖、毁损已被查封、扣押的财产，或者已被清点并责令其保管的财产，转移已被冻结的财产的；

(四) 对司法工作人员、诉讼参加人、证人、翻译人员、鉴定人、勘验人、协助执行的人，进行侮辱、诽谤、诬陷、殴打或者打击报复的；

guarantee, where the applicant does not provide guarantee, the application shall be rejected. Where the applicant loses the lawsuit, the applicant shall compensate the respondent for property losses incurred from prior enforcement.

Article 111A litigant who disagrees with the ruling on preservation or prior enforcement may apply for review once. Enforcement of the ruling shall not be suspended during the review period.

#### Chapter 10 — Mandatory Measures Against Obstruction of Civil Action

Article 112A People's Court may issue a warrant for a Defendant who is required to be present in court but refused to be present in court without a proper reason after being served a summons twice. Article 113 Participants in proceedings and other persons shall comply with court rules. A People's Court may reprimand persons who violate court rules, order them to leave the courtroom or impose a fine or detention.

For persons who cause a stir in the courtroom or charge into the courtroom, insult, defame, threaten or assault the judge(s), or seriously disrupt the order of the courtroom, criminal liability shall be pursued by the People's Court in accordance with the law; in less serious cases, a fine or detention shall be imposed.

Article 114 For participants in proceedings or other persons who commit any of the following acts, the People's Court may impose a fine or detention based on the extent of the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law: (1) Forge and destroy important evidence, obstructing trial of cases by the People's Court;

(2) Use violence, threat or bribery to stop a witness from testifying or instigate, bribe or threaten others to commit perjury;

(3) Conceal, transfer, sell and destroy seized or confiscated properties or properties which have been counted and placed under custody, transfer frozen properties;

(4) Insult, defame, frame, assault or retaliate against judicial staff, participants in proceedings, witnesses, interpreters, expert witnesses, inspectors and personnel assisting in enforcement;

(5) Obstruct performance of duties by judicial staff by way of violence, threat or any other method; or

(五)以暴力、威胁或者其他方法阻碍司法工作人员执行职务的；

(六)拒不履行人民法院已经发生法律效力的判决、裁定的。

人民法院对有前款规定的行为之一的单位，可以对其主要负责人或者直接责任人员予以罚款、拘留；构成犯罪的，依法追究刑事责任。

**第一百一十五条** 当事人之间恶意串通，企图通过诉讼、调解等方式侵害他人合法权益的，人民法院应当驳回其请求，并根据情节轻重予以罚款、拘留；构成犯罪的，依法追究刑事责任。

**第一百一十六条** 被执行人与他人恶意串通，通过诉讼、仲裁、调解等方式逃避履行法律文书确定的义务的，人民法院应当根据情节轻重予以罚款、拘留；构成犯罪的，依法追究刑事责任。

**第一百一十七条** 有义务协助调查、执行的单位有下列行为之一的，人民法院除责令其履行协助义务外，并可以予以罚款：

(一)有关单位拒绝或者妨碍人民法院调查取证的；

(二)有关单位接到人民法院协助执行通知书后，拒不协助查询、扣押、冻结、划拨、变价财产的；

(三)有关单位接到人民法院协助执行通知书后，拒不协助扣留被执行人的收入、办理有关财产权证照转移手续、转交有关票证、证照或者其他财产的；

(四)其他拒绝协助执行的。

人民法院对有前款规定的行为之一的单位，可以对其主要负责人或者直接责任人员予以罚款；对仍不履行协助义务的，可以予以拘留；并可以向监察机关或者有关机关提出予以纪律处分的司法建议。

(6) Refuse to perform a judgment or ruling of a People's Court which has come into legal effect.

The People's Court may impose a fine or detention on the key person-in-charge or directly accountable personnel of the organisation which has committed any of the acts stipulated in the preceding paragraph; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

**Article 115**Where the litigants have conspired to attempt to harm the legitimate rights and interests of others through litigation, mediation, etc., the People's Court shall reject their request and impose a fine or detention based on the extent of the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

**Article 116**Where an enforcee has conspired with others to evade performance of the obligations stipulated in the legal documents through litigation, arbitration, mediation, etc, the People's Court shall impose a fine or detention pursuant to the extent of the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

**Article 117**Where an organisation obligated to assist in investigation or enforcement has committed any of the following acts, the People's Court may, in addition to ordering the organisation to perform the obligation to assist, impose a fine: (1) The relevant organisation refuses or obstructs the People's Court's investigation or evidence collection;

(2) The relevant organisation refuses to assist in enquiry, seizure, freezing, allocation or realisation of properties upon receipt of the People's Court's Notice on Assistance in Enforcement;

(3) The relevant organisation refuses to assist in seizure of the enforcee's income, handling of transfer of the relevant property rights certificate, forwarding of the relevant bills, certificates or other properties upon receipt of the People's Court's Notice on Assistance in Enforcement; or

(4) Refusal to assist in enforcement.

The People's Court may impose a fine on the key person-in-charge or directly accountable personnel of the organisation which has committed any of the acts stipulated in the preceding paragraph; person(s) who still refuse(s) to perform the obligations to assist may be detained; the People's Court may propose judicial recommendations of disciplinary actions to the surveillance

**第一百一十八条** 对个人的罚款金额，为人民币十万元以下。对单位的罚款金额，为人民币五万元以上一百万元以下。

authorities or the relevant authorities.

Article 118A fine imposed on an individual shall not exceed RMB100,000. A fine imposed on an organisation shall range from RMB50,000 to RMB1 million. The detention period shall not exceed 15 days.

拘留的期限，为十五日以下。

Detained persons shall be referred to the custody of public security authorities by the People's Court. Where a detained person admits and makes correction during the detention period, the People's Court may decide to terminate the detention prematurely.

**被拘留的人，由人民法院交公安机关看管。在拘留期间，被拘留人承认并改正错误的，人民法院可以决定提前解除拘留。**

**第一百一十九条 拘传、罚款、拘留必须经院长批准。**

Article 119 Issuance of warrant, fine or detention shall be subject to approval by the President of the People's Court. Subpoena shall be issued for coercive summons.

**拘传应当发拘传票。**

A decision letter shall be made for a fine or detention. A person who disagrees with a decision may apply to the higher-level People's Court for review once. Enforcement of the decision letter shall not be suspended during the review period.

**第一百二十条** 采取对妨害民事诉讼的强制措施必须由人民法院决定。任何单位和个人采取非法拘禁他人或者非法私自扣押他人财产追索债务的，应当依法追究刑事责任，或者予以拘留、罚款。

Article 120 Mandatory measures for obstruction of civil lawsuit shall be decided by the People's Court. For any organisations and individuals adopting illegal detention of others or illegal seizure of other's properties for recovery of debts, criminal liability shall be pursued in accordance with the law or the People's Court may impose detention or a fine.

#### 第十一章 诉讼费用

**第一百二十一条** 当事人进行民事诉讼，应当按照规定交纳案件受理费。财产案件除交纳案件受理费外，并按照规定交纳其他诉讼费用。

#### Chapter 11 — Litigation Expenses

Article 121 Litigants participating in civil lawsuits shall pay a case acceptance fee pursuant to the provisions. For property cases, in addition to case acceptance fee, litigants shall pay other litigation expenses pursuant to the provisions. Where a litigant has genuine difficulty in payment of litigation expenses, the litigant may apply to the People's Court for deferred payment, reduction or exemption of payment pursuant to the provisions.

**当事人交纳诉讼费用确有困难的，可以按照规定向人民法院申请缓交、减交或者免交。**

The measures on collection of litigation expenses shall be separately formulated.

**收取诉讼费用的办法另行制定。**

## Part II TRIAL PROCEDURES

### Chapter 12 — General Procedures for Trial of First Instance

#### Section 1 — Filing and Acceptance of Lawsuits

**第二编 审判程序**  
**第十二章 第一审普通程序**  
**第一节 起诉和受理**  
**第一百二十二条** 起诉必须符合下列条件：

Article 122 Filing of a lawsuit shall satisfy the following criteria: (1) The Plaintiff is a citizen, a legal person or an organisation that has a direct stake in the case;

(一) 原告是与本案有直接利害关系的公民、法人和其他组织；

(2) There is/are specific Defendant(s);

(二) 有明确的被告；

(3) There are specific claim(s) and facts and reasons; and

(三) 有具体的诉讼请求和事实、理由；

(4) The lawsuit falls under the scope of acceptance of civil lawsuits by People's Courts and the jurisdiction of the

#### (四) 属于人民法院受理民事诉讼的范围和受诉人民法院管辖。

**第一百二十三条** 起诉应当向人民法院递交起诉状，并按照被告人数提出副本。

书写起诉状确有困难的，可以口头起诉，由人民法院记入笔录，并告知对方当事人。

**第一百二十四条** 起诉状应当记明下列事项：

(一) 原告的姓名、性别、年龄、民族、职业、工作单位、住所、联系方式，法人或者其他组织的名称、住所和法定代表人或者主要负责人的姓名、职务、联系方式；

(二) 被告的姓名、性别、工作单位、住所等信息，法人或者其他组织的名称、住所等信息；

(三) 诉讼请求和所根据的事实与理由；

(四) 证据和证据来源，证人姓名和住所。

**第一百二十五条** 当事人起诉到人民法院的民事纠纷，适宜调解的，先行调解，但当事人拒绝调解的除外。

**第一百二十六条** 人民法院应当保障当事人依照法律规定享有的起诉权利。对符合本法第一百二十二条的起诉，必须受理。符合起诉条件的，应当在七日内立案，并通知当事人；不符合起诉条件的，应当在七日内作出裁定书，不予受理；原告对裁定不服的，可以提起上诉。

**第一百二十七条** 人民法院对下列起诉，分别情形，予以处理：

(一) 依照行政诉讼法的规定，属于行政诉讼受案范围的，告知原告提起行政诉讼；

(二) 依照行政诉讼法的规定，双方当事人达成书面仲裁协议申请仲裁、不得

Article 123An indictment shall be submitted to a People's Court for filing of a lawsuit, and the number of duplicate copies to be submitted shall be based on the number of the Defendants. Where there is genuine difficulty for submission of a written indictment, the lawsuit may be filed verbally, and the People's Court shall keep the written record and notify the counterparty of the lawsuit.

Article 124An indictment shall state the following matters: (1) The name, gender, age, race, occupation, employer, address, contact details of the Plaintiff, the name, address of the legal person or organisation and the name, designation and contact details of the legal representative or the key person-in-charge;

(2) The name, gender, employer, address, etc of the Defendant, the name, address, etc of the legal person or other organisation;

(3) Claim and facts and reasons on which the claim is based; and

(4) Evidence and source of evidence, the name and address of the witness.

Article 125Where a civil dispute lawsuit lodged by a litigant with a People's Court is suitable for mediation, mediation shall be carried out first, except where the litigant refuses mediation.

Article 126People's Courts shall protect the rights of litigants for filing of lawsuit pursuant to the provisions of the laws. Lawsuits which comply with Article 122 hereof shall be accepted. A People's Court shall establish a case file for a lawsuit which satisfies the prosecution criteria within seven days and notify the litigants; where the prosecution criteria is not satisfied, the People's Court may issue a ruling document on non-acceptance of lawsuit within seven days; where the Plaintiff disagrees with the ruling, the Plaintiff may file an appeal.

Article 127People's Courts may deal with the following filing of lawsuits based on the respective circumstances: (1) Where the case falls under the scope of acceptance of an administrative lawsuit pursuant to the provisions of the Administrative Procedure Law, the People's Court shall notify the Plaintiff to file an administrative lawsuit;

(2) Where both parties to a lawsuit have entered into a written arbitration agreement to apply for arbitration pursuant to the provisions of the laws, and are not allowed to file a lawsuit with a People's Court, the People's Court

向人民法院起诉的，告知原告向仲裁机构申请仲裁；

(三) 依照法律规定，应当由其他机关处理的争议，告知原告向有关机关申请解决；

(四) 对不属于本院管辖的案件，告知原告向有管辖权的人民法院起诉；

(五) 对判决、裁定、调解书已经发生法律效力的案件，当事人又起诉的，告知原告申请再审，但人民法院准许撤诉的裁定除外；

(六) 依照法律规定，在一定期限内不得起诉的案件，在不得起诉的期限内起诉的，不予受理；

(七) 判决不准离婚和调解和好的离婚案件，判决、调解维持收养关系的案件，没有新情况、新理由，原告在六个月内又起诉的，不予受理。

shall notify the Plaintiff to apply to an arbitration organisation for arbitration;

(3) Where a dispute should be handled by other authorities pursuant to the provisions of the laws, the People's Court shall notify the Plaintiff to apply to the relevant authorities for resolution;

(4) Where the case does not fall under the jurisdiction of the People's Court, the People's Court shall notify the Plaintiff to file a lawsuit with a People's Court which has jurisdiction;

(5) In the event of a case for which the judgment, ruling or mediation document has come into legal effect, and that the litigant files a lawsuit again, the People's Court shall notify the Plaintiff to apply for re-trial, except for a ruling where the People's Court grants withdrawal of lawsuit;

(6) Where a lawsuit cannot be filed within a stipulated period pursuant to the provisions of the laws, but the Plaintiff files a lawsuit within the period for which filing of lawsuit is prohibited, the lawsuit shall not be accepted; and

(7) With respect to divorce cases for which the judgment does not permit a divorce, divorce cases for which both parties are reconciled after mediation, and cases for which adoptive relations are maintained by the judgment or upon mediation, where there are no new circumstances or a new reason and the Plaintiff files a lawsuit again within six months, the lawsuit shall not be accepted.

## 第二节 审理前的准备

**第一百二十八条** 人民法院应当在立案之日起五日内将起诉状副本发送被告，被告应当在收到之日起十五日内提出答辩状。答辩状应当记明被告的姓名、性别、年龄、民族、职业、工作单位、住所、联系方式；法人或者其他组织的名称、住所和法定代表人或者主要负责人的姓名、职务、联系方式。人民法院应当在收到答辩状之日起五日内将答辩状副本发送原告。

被告不提出答辩状的，不影响人民法院审理。

## Section 2 — Pre-trial Preparation

Article 128A People's Court shall send a duplicate copy of the indictment to the Defendant within five days from the date of establishment of case file, the Defendant shall submit the pleadings within 15 days from the date of receipt of the indictment. The pleadings shall state the name, gender, age, race, occupation, employer, address and contact details of the Defendant; the name and address of the legal person or other organisation and the name, designation and contact details of the legal representative or the key person-in-charge. The People's Court shall send a duplicate copy of the pleadings to the Plaintiff within five days from the date of receipt of the pleadings. Failure of a Defendant to submit a pleading shall not affect trial of the lawsuit by the People's Court.

第一百二十九条 人民法院对决定受理的案件，应当在受理案件通知书和应诉通知书中向当事人告知有关的诉讼权利义务，或者口头告知。

第一百三十条 人民法院受理案件后，当事人对管辖权有异议的，应当在提交答辩状期间提出。人民法院对当事人提出的异议，应当审查。异议成立的，裁定将案件移送有管辖权的人民法院；异议不成立的，裁定驳回。

**当事人未提出管辖异议，并应诉答辩的，视为受诉人民法院有管辖权，但违反级别管辖和专属管辖规定的除外。**

第一百三十一条 审判人员确定后，应当在三日内告知当事人。

第一百三十二条 审判人员必须认真审核诉讼材料，调查收集必要的证据。

第一百三十三条 人民法院派出人员进行调查时，应当向被调查人出示证件。

**调查笔录经被调查人校阅后，由被调查人、调查人签名或者盖章。**

第一百三十四条 人民法院在必要时可以委托外地人民法院调查。

**委托调查，必须提出明确的项目和要求。受委托人民法院可以主动补充调查。**

受委托人民法院收到委托书后，应当在三十日内完成调查。因故不能完成的，应当在上述期限内函告委托人民法院。

第一百三十五条 必须共同进行诉讼的当事人没有参加诉讼的，人民法院应当通知其参加诉讼。

第一百三十六条 人民法院对受理的案件，分别情形，予以处理：

**(一) 当事人没有争议，符合督促程序规定条件的，可以转入督促程序；**

**(二) 开庭前可以调解的，采取调解方式及时解决纠纷；**

**(三) 根据案件情况，确定适用简易程序或者普通程序；**

Article 129Where a People's Court has decided to accept a case, the People's Court shall notify the litigants of the relevant litigation rights and obligations in the notice on acceptance of case and notice on correspondence to action or verbally.

Article 130Upon acceptance of a case by the People's Court, where a litigant objects to the jurisdiction, the objection shall be raised during the timeframe for submission of pleadings. The People's Court shall examine the objection raised by the litigant. Where the objection is justified, the People's Court shall rule that the case be forwarded to a People's Court which has jurisdiction; where the objection is groundless, the People's Court shall rule that the objection be rejected. Where the litigants do not raise any objection to jurisdiction and respond with pleadings, the litigants shall be deemed to acknowledge that the People's Court which accepts the lawsuit has jurisdiction, except where the provisions on grade jurisdiction and exclusive jurisdiction are violated.

Article 131Upon confirmation of the judges, the litigants shall be notified within three days.

Article 132The judge(s) shall examine litigation materials seriously, investigate and gather the requisite evidence.

Article 133Personnel designated by a People's Court to conduct investigation shall present their credentials to the party being investigated. Upon review of the investigation records by the party being investigated, the party being investigated and the investigation personnel shall sign or affix seal thereon.

Article 134Where necessary, a People's Court may entrust a People's Court at another location to conduct investigation. Specific items and requirements shall be put forward for entrustment of investigation. The entrusted People's Court may voluntarily engage in supplementary investigation.

Upon receipt of the power of attorney, the entrusted People's Court shall complete investigation within 30 days. Where the investigation cannot be completed due to some reason, the entrusting People's Court shall be notified in writing within the aforesaid period.

Article 135Where a litigant in a joint action does not participate in the proceedings, the People's Court shall notify the litigant to participate in the proceedings.

Article 136People's Courts shall deal with accepted cases based on the respective circumstances: (1) The litigants do not dispute and the case complies with the criteria stipulated in the procedures of supervision and urge, the case may be moved to the procedures of supervision and urge;

(2) Where mediation can be carried out before a hearing, the dispute shall be promptly resolved by way of mediation;

(3) It is determined in accordance with the circumstances of a case that the summary procedures or general procedures are applicable to the lawsuit; and

(四) 需要开庭审理的，通过要求当事人交换证据等方式，明确争议焦点。

### 第三节 开庭审理

**第一百三十七条** 人民法院审理民事案件，除涉及国家秘密、个人隐私或者法律另有规定的以外，应当公开进行。

离婚案件，涉及商业秘密的案件，当事人申请不公开审理的，可以不公开审理。

**第一百三十八条** 人民法院审理民事案件，根据需要进行巡回审理，就地办案。

**第一百三十九条** 人民法院审理民事案件，应当在开庭三日前通知当事人和其他诉讼参与人。公开审理的，应当公告当事人姓名、案由和开庭的时间、地点。

**第一百四十条** 开庭审理前，书记员应当查明当事人和其他诉讼参与人是否到庭，宣布法庭纪律。

开庭审理时，由审判长或者独任审判员核对当事人，宣布案由，宣布审判人员、书记员名单，告知当事人有关的诉讼权利义务，询问当事人是否提出回避申请。

**第一百四十一条** 法庭调查按照下列顺序进行：

(一) 当事人陈述；

(二) 告知证人的权利义务，证人作证，宣读未到庭的证人证言；

(三) 出示书证、物证、视听资料和电子数据；

(四) 宣读鉴定意见；

(五) 宣读勘验笔录。

**第一百四十二条** 当事人在法庭上可以提出新的证据。

当事人经法庭许可，可以向证人、鉴定人、勘验人发问。

当事人要求重新进行调查、鉴定

(4) Where a hearing is required, the litigants shall be required to define the focus of the dispute through exchange of evidence, etc.

### Section 3 — Open Hearing

Article 137 People's Courts shall try civil cases by way of open hearing, except where State secrets or personal privacy is/are involved or otherwise stipulated by the law. For a divorce case or a case which involves commercial secrets, where a litigant applies for closed hearing, the lawsuit may be tried in closed hearing.

Article 138 People's Courts trying civil cases shall try cases on a roaming manner and handle cases on the spot based on the needs.

Article 139 People's Courts trying a civil case shall notify the litigants and other participants in proceedings three days before the hearing. For an open hearing, the name of the litigants, the cause of action and the time and venue of the hearing shall be announced.

Article 140 Prior to a hearing, the court clerk shall ascertain whether the litigants and other participants in proceedings will be present in court and proclaim courtroom order. At a hearing, the presiding judge or the sole judge shall verify the litigants, proclaim the cause of action, announce the list of the judge(s) and the court clerk, notify the litigants of their relevant litigation rights and obligations, and enquire whether the litigants have submitted an application for recusal .

Article 141 Court investigation shall be conducted in accordance with the following sequence: (1) Statements of litigants;

(2) Notification of witnesses of rights and obligations, testifying by witnesses, reading of testimony(ies) of witness(es) not present in the court;

(3) Presentation of documentary evidence, physical evidence, audio-visual materials and electronic data;

(4) Reading of expert opinion; and

(5) Reading of inquest records.

Article 142 Litigants may put forward new evidence in the courtroom. Upon consent by the court, a litigant may question a witness, expert witness or inspector.

Where a litigant requests for re-investigation, re-examination or re-inspection, the People's Court shall decide whether to grant approval.

或者勘验的，是否准许，由人民法院决定。

第一百四十三条 原告增加诉讼请求，被告提出反诉，第三人提出与本案有关的诉讼请求，可以合并审理。

第一百四十四条 法庭辩论按照下列顺序进行：

(一) 原告及其诉讼代理人发言；

(二) 被告及其诉讼代理人答辩；

(三) 第三人及其诉讼代理人发言或者答辩；

(四) 互相辩论。

法庭辩论终结，由审判长或者独任审判员按照原告、被告、第三人的先后顺序征询各方最后意见。

第一百四十五条 法庭辩论终结，应当依法作出判决。判决前能够调解的，还可以进行调解，调解不成的，应当及时判决。

第一百四十六条 原告经传票传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，可以按撤诉处理；被告反诉的，可以缺席判决。

第一百四十七条 被告经传票传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，可以缺席判决。

第一百四十八条 宣判前，原告申请撤诉的，是否准许，由人民法院裁定。

人民法院裁定不准许撤诉的，原告经传票传唤，无正当理由拒不到庭的，可以缺席判决。

第一百四十九条 有下列情形之一的，可以延期开庭审理：

(一) 必须到庭的当事人和其他诉讼参与人有正当理由没有到庭的；

(二) 当事人临时提出回避申请的；

(三) 需要通知新的证人到庭，

Article 143Where the Plaintiff increases claims, the Defendant files a counterclaim, and a third party makes claims relating to this case, the People's Court may try them together.

Article 144Court debate shall be conducted in accordance with the following sequence: (1) Statement by the Plaintiff and its agent ad litem;

(2) Response by the Defendant and its agent ad litem;

(3) Statement or response by the third party and its agent ad litem; and

(4) Mutual debate.

Upon conclusion of court debate, the presiding judge or the sole judge shall consult the final opinion of each party in the sequence of the Plaintiff, the Defendant and the third party.

Article 145Upon conclusion of the court debate, the People's Court shall make a judgment pursuant to the law. Where mediation can be carried out before the judgment is made, mediation may be carried out; where mediation is unsuccessful, the court shall promptly make a judgment.

Article 146Where the Plaintiff refuses to be present in court upon being served a summons and without a proper reason, or leaves the courtroom halfway without the consent of the court, the matter may be dealt with as withdrawal of lawsuit; where the Defendant files a counterclaim, the judgment in default may be made.

Article 147Where the Defendant refuses to be present in court upon being served a summons and without a proper reason or leaves the courtroom halfway without the consent of the court, the judgment in default may be made.

Article 148Prior to the pronouncement of the judgment, where the Plaintiff applies for withdrawal of lawsuit, the People's Court shall rule on whether to grant approval. Where the People's Court rules that withdrawal of lawsuit is not granted, the Plaintiff refuses to be present in court upon being served a summons and without a proper reason, the judgment in default may be made.

Article 149Under any of the following circumstances, a hearing may be deferred: (1) Where the litigants and other participants in proceedings who are required to be present at a hearing are absent at the hearing with a proper reason;

(2) Where the litigants submit an application for recusal impromptu;

(3) Where there is a need to notify a new witness to be present in court, investigate and collect new evidence, carry

调取新的证据，重新鉴定、勘验，或者需要补充调查的；

#### (四) 其他应当延期的情形。

**第一百五十条** 书记员应当将法庭审理的全部活动记入笔录，由审判人员和书记员签名。

法庭笔录应当当庭宣读，也可以告知当事人和其他诉讼参与人当庭或者在五日内阅读。当事人和其他诉讼参与人认为对自己的陈述记录有遗漏或者差错的，有权申请补正。如果不予补正，应当将申请记录在案。

法庭笔录由当事人和其他诉讼参与人签名或者盖章。拒绝签名盖章的，记明情况附卷。

**第一百五十二条** 人民法院对公开审理或者不公开审理的案件，一律公开宣告判决。

当庭宣判的，应当在十日内发送判决书；定期宣判的，宣判后立即发给判决书。

宣告判决时，必须告知当事人上诉权利、上诉期限和上诉的法院。

宣告离婚判决，必须告知当事人在判决发生法律效力前不得另行结婚。

**第一百五十三条** 人民法院适用普通程序审理的案件，应当在立案之日起六个月内审结。有特殊情况需要延长的，经本院院长批准，可以延长六个月；还需要延长的，报请上级人民法院批准。

#### 第四节 诉讼中止和终结

**第一百五十四条** 有下列情形之一的，中止诉讼：

(一) 一方当事人死亡，需要等待继承人表明是否参加诉讼的；

(二) 一方当事人丧失诉讼行为能力，尚未确定法定代理人的；

out re-examination or re-inspection, or there is a need to carry out supplementary investigation; or

#### (4) Any other circumstances under which a hearing should be deferred.

Article 150The court clerk shall record all activities in a hearing into the courtroom record, and the judge(s) and the court clerk shall sign thereon. The courtroom record shall be read out in court, or the litigants and other participants in proceedings may be notified of inspecting the courtroom record on the spot or within five days. Where the litigants and other participants in proceedings deemed that there is any omission or error in the record of their statement, they shall have the right to apply for supplementation or correction. Where correction or supplementation is not granted, this shall be recorded in the case file.

The litigants and other participants in proceedings shall sign or affix seal on the courtroom record. Where a litigant or participant in proceedings refuses to sign or affix seal, this shall be stated on file.

Article 151People's Courts shall pronounce judgment for all cases, regardless of open hearing or closed hearing. Where a judgment is pronounced in court, the judgment letter shall be served within 10 days; where a judgment is pronounced on a fixed date, the judgment letter shall be served forthwith upon pronouncement of judgment.

When a judgment is pronounced, the litigants shall be notified of their rights to appeal, the appeal period and the court of appeal.

When a divorce judgment is pronounced, the litigants shall be notified that they shall not remarry before the judgment comes into legal effect.

Article 152Trial of a case for which a People's Court applies general procedures for trial shall be completed within six months from the date of establishment of case file. Where there is a need for extension of time under special circumstances, upon the approval of the president of the court, an extension of time of six months may be granted; where there is a need for further extension of time, the approval of the higher-level People's Court is required.

#### Section 4 — Suspension and Termination of Litigation

Article 153Under any of the following circumstances, litigation shall be suspended: (1) A party to the lawsuit has passed away, there is a need to wait for the heir to express if he/she will participate in the lawsuit;

(2) A party to the lawsuit has lost the capacity to participate in proceedings and a statutory agent has not been determined;

(三)作为一方当事人的法人或者其他组织终止，尚未确定权利义务承受人的；

(四)一方当事人因不可抗拒的事由，不能参加诉讼的；

(五)本案必须以另一案的审理结果为依据，而另一案尚未审结的；

(六)其他应当中止诉讼的情形。

中止诉讼的原因消除后，恢复诉讼。

第一百五十四条 有下列情形之一的，终结诉讼：

(一)原告死亡，没有继承人，或者继承人放弃诉讼权利的；

(二)被告死亡，没有遗产，也没有应当承担义务的人的；

(三)离婚案件一方当事人死亡的；

(四)追索赡养费、扶养费、抚养费以及解除收养关系案件的一方当事人死亡的。

#### 第五节 判决和裁定

第一百五十五条 判决书应当写明判决结果和作出该判决的理由。判决书内容包括：

(一)案由、诉讼请求、争议的事实和理由；

(二)判决认定的事实和理由、适用的法律和理由；

(三)判决结果和诉讼费用的负担；

(3) A legal person or an organisation who is a party to the lawsuit has its operation terminated, and the bearer of its rights and obligations has not been determined;

(4) A party to the lawsuit is unable to participate in proceedings due to a force majeure event;

(5) The case is required to use the outcome of the trial of another case as the basis and the trial of the other case has yet to be concluded; or

(6) Any other circumstances under which litigation should be suspended.

Upon elimination of the reason for suspension of litigation, litigation shall be resumed.

Article 154 Under any of the following circumstances, litigation shall be terminated: (1) The Plaintiff has passed away and there is no heir or the heir has waived the litigation rights;

(2) The Defendant has passed away, there is no estate and no duty bearer;

(3) A party to a divorce case has passed away; or

(4) A party to a lawsuit for recourse of alimony, payment of maintenance, payment of upbringing or termination of adoptive relationship has passed away.

#### Section 5 — Judgment and Ruling

Article 155 A judgment letter shall state the outcome of the judgment and the reason for making the judgment. The contents of a judgment letter shall include: (1) Cause of action, claim, dispute facts and reasons;

(2) Facts and reasons ascertained by the judgment, applicable laws and reason;

(3) Outcome of judgment and bearing of litigation expenses; and

(4) Appeal period and court of appeal.

(四) 上诉期间和上诉的法院。

A judgment letter shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal.

判决书由审判人员、书记员署

名，加盖人民法院印章。

**第一百五十六条** 人民法院审理案件，其中一部分事实已经清楚，可以就该部分先行判决。

**第一百五十七条** 裁定适用于下列范围：

Article 156 Where part of the facts of a case being tried by a People's Court is clear, the People's Court may pass judgment on the said part first.

Article 157 The following scope shall apply to rulings: (1) Non-acceptance of lawsuit;

(一) 不予受理；

(2) Objection to jurisdiction;

(二) 对管辖权有异议的；

(3) Rejection of lawsuit;

(三) 驳回起诉；

(4) Preservation and prior enforcement;

(四) 保全和先予执行；

(5) Approval or non-approval of withdrawal of lawsuit;

(五) 准许或者不准许撤诉；

(6) Suspension or termination of litigation;

(六) 中止或者终结诉讼；

(7) Correction of clerical error in a judgment letter;

(七) 补正判决书中的笔误；

(8) Suspension or termination of enforcement;

(八) 中止或者终结执行；

(9) Revocation or non-enforcement of an arbitral award;

(九) 撤销或者不予执行仲裁裁决；

(10) Non-enforcement of a debt instrument for which a notary public has vested mandatory enforceability; or

(十) 不予执行公证机关赋予强制执行效力的债权文书；

(11) Any other matters which require ruling and resolution.

(十一) 其他需要裁定解决的事项。

An appeal may be filed for a ruling stipulated in item (1) to

item (3) of the preceding paragraph.

A ruling document shall state the ruling outcome and the reason for making the ruling. A ruling document shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal. A verbal ruling shall be recorded in writing.

裁定书应当写明裁定结果和作出该裁定的理由。裁定书由审判人员、书记员署名，加盖人民法院印章。口头裁定的，记入笔录。

**第一百五十八条** 最高人民法院的判决、裁定，以及依法不准上诉或者超过上诉期没有上诉的判决、裁定，是发生法律效力的判决、裁定。

Article 158 Judgments and rulings of the Supreme People's Court, and judgments and rulings for which appeal is not allowed pursuant to the law or judgments and rulings for which an appeal is not filed within the appeal period shall be judgments and rulings which have come into legal effect.

**第一百五十九条** 公众可以查阅发生法律效力的判决书、裁定书，但涉及

Article 159 The public may inspect judgment letters and ruling documents which have come into legal effect, except where the

国家秘密、商业秘密和个人隐私的内容除外。

### 第十三章 简易程序

**第一百六十条** 基层人民法院和它派出的法庭审理事实清楚、权利义务关系明确、争议不大的简单的民事案件，适用本章规定。

基层人民法院和它派出的法庭审理前款规定以外的民事案件，当事人双方也可以约定适用简易程序。

**第一百六十一条** 对简单的民事案件，原告可以口头起诉。

当事人双方可以同时到基层人民法院或者它派出的法庭，请求解决纠纷。基层人民法院或者它派出的法庭可以当即审理，也可以另定日期审理。

**第一百六十二条** 基层人民法院和它派出的法庭审理简单的民事案件，可以用简便方式传唤当事人和证人、送达诉讼文书、审理案件，但应当保障当事人陈述意见的权利。

**第一百六十三条** 简单的民事案件由审判员一人独任审理，并不受本法第一百三十九条、第一百四十二条、第一百四十四条规定的限制。

**第一百六十四条** 人民法院适用简易程序审理案件，应当在立案之日起三个月内审结。有特殊情况需要延长的，经本院院长批准，可以延长一个月。

**第一百六十五条** 基层人民法院和它派出的法庭审理事实清楚、权利义务关系明确、争议不大的简单金钱给付民事案件，标的额为各省、自治区、直辖市上年度就业人员年平均工资百分之五十以下的，适用小额诉讼的程序审理，实行一审终审。

基层人民法院和它派出的法庭审理前款规定的民事案件，标的额超过各省、自治区、直辖市上年度就业人员年平均工资百分之五十但在二倍以下的，当事人双方也可以约定适用小额诉讼的程序。

**第一百六十六条** 人民法院审理下列民事案件，不适用小额诉讼的程序：

(一) 人身关系、财产确权案件；

(二) 涉外案件；

contents involve State secrets, commercial secrets and personal privacy.

### Chapter 13 — Summary Procedures

**Article 160**The provisions of this Chapter shall apply to trial of simple civil cases with clear facts, specific rights and obligations and non-major dispute by grassroots People's Courts and their branches. For civil cases other than those stipulated in the preceding paragraph tried by Grassroots People's Courts and their branches, both litigants may agree on application of summary procedures.

**Article 161**With respect to a simple civil case, the Plaintiff may file the lawsuit verbally. Both parties to a lawsuit may go to a grassroots People's Court or its branch to request for resolution of dispute at the same time. The grassroots People's Court or its branch may try the lawsuit on the spot or fix a date for trial.

**Article 162**Grassroots People's Courts and their branches trying simple civil cases may summon the litigants and witnesses, serve litigation documents and try the cases via simple and convenient methods, but shall protect the rights of litigants to make representation.

**Article 163**Simple civil cases shall be tried by one judge and shall not be subject to the restrictions stipulated in Article 139, Article 141 and Article 144 hereof.

**Article 164** A People's Court applying summary procedures for trial of a case shall complete trial within three months from the date of filing. Where it is necessary to extend the time limit under special circumstances, it may be extended by one month upon approval of the president of the court.

**Article 165**For a simple civil lawsuit pertaining to payment of money with clear facts, specific rights and obligations relationship and non-major dispute to be tried by a grassroots people's court or any tribunal dispatched by it, where the amount of the subject matter is below 50% of the annual average wage of employees in the province, autonomous region or centrally administered municipality concerned in the previous year, and the petty lawsuit procedures apply, the trial of first instance shall be final. Where a basic people's court or a tribunal dispatched by it tries a civil case as prescribed in the preceding paragraph, with the amount of subject matter exceeding 50% but less than two times the annual average wage of the employees in the province, autonomous region or centrally administered municipality concerned in the previous year, the parties concerned may also agree to apply the petty lawsuit procedure.

**Article 166** The petty lawsuit procedures shall not apply to the trial of the following civil cases by a People's Court: (1) cases involving the confirmation of personal relations and property rights;

(2) foreign-related cases;

(3) cases that require evaluation or authentication or where objections are raised to pre-trial evaluation or

(三) 需要评估、鉴定或者对诉

authentication results;

前评估、鉴定结果有异议的案件；

(4) cases in which the whereabouts of one party are

(四) 一方当事人下落不明的案  
件；

unknown;

(五) 当事人提出反诉的案件；

(5) cases in which a party concerned files a counterclaim;  
and

(六) 其他不宜适用小额诉讼的  
程序审理的案件。

(6) other cases to which the petty lawsuit procedures are  
not applicable.

**第一百六十七条** 人民法院适用  
小额诉讼的程序审理案件，可以一次开庭  
审结并且当庭宣判。

Article 167 A People's Court applying the petty lawsuit procedures  
to try a case may close the trial in one hearing and the judgment  
may be pronounced in court.

**第一百六十八条** 人民法院适用  
小额诉讼的程序审理案件，应当在立案之  
日起两个月内审结。有特殊情况需要延  
长的，经本院院长批准，可以延长一个月。

Article 168 A People's Court applying the petty lawsuit procedures  
to try a case shall complete the trial within two months from the  
date of filing. Where there is a need for extension of time under  
special circumstances, upon approval of the president of the court,  
a one-month extension may be allowed.

**第一百六十九条** 人民法院在审  
理过程中，发现案件不宜适用小额诉讼的  
程序的，应当适用简易程序的其他规定审理  
或者裁定转为普通程序。

Article 169 Where a People's Court discovers during trial that the  
petty lawsuit procedures are not appropriate for the case, it shall  
apply other provisions of summary procedures or rule on  
conversion of the trial to general procedures. Where a litigant  
believes that the application of petty lawsuit procedures to trial of  
the case violates the provisions of the law, it may raise an objection  
to the People's Court. The People's Court shall examine the  
objection raised by the litigant, where the objection is tenable, the  
People's Court shall apply other provisions of summary procedures  
or rule on conversion of the trial to general procedures; where the  
objection is untenable, the People's Court shall rule to reject it.

当事人认为案件适用小额诉讼的  
程序审理违反法律规定的，可以向人  
民法院提出异议。人民法院对当事  
人提出的异议应当审查，异议成立的，  
应当适用简易程序的其他规定审理或  
者裁定转为普通程序；异议不成立  
的，裁定驳回。

Article 170Where a People's Court discovers during the trial  
process that summary procedures are not suitable for the case on  
trial, the People's Court shall rule on switching to general  
procedures.

**第一百七十条** 人民法院在审  
理过程中，发现案件不宜适用简易程序的，  
裁定转为普通程序。

Chapter 14 — Procedures for Trial of Second Instance  
Article 171Where a litigant disagrees with a judgment of first  
instance of a local People's Court, it/he has the right to file an  
appeal with the higher-level People's Court within 15 days from the  
date of service of the judgment letter. Where a litigant disagrees  
with a ruling of first instance of a Local People's Court, it/he has  
the right to file an appeal with the higher-level People's Court  
within 10 days from the date of service of the ruling document.

**第十四章 第二审程序**  
**第一百七十二条** 上诉应当递交  
上诉状。上诉状的内容，应当包括当事  
人的姓名，法人的名称及其法定代表人  
的姓名或者组织的名称及其主要负责  
人的姓名；原审人民法院名称、案件的编  
号和案由；上诉的请求和理由。

Article 172A petition for appeal shall be submitted for an appeal.  
The contents of a petition for appeal shall include the names of the  
litigants, the name of the legal person and the name of its legal  
representative or the name of the organisation and the name of its  
key person-in-charge; the name of the People's Court which  
originally heard the case, reference number and cause of action of  
the case; the appeal request(s) and reason(s).

**第一百七十三条** 上诉状应当通  
过原审人民法院提出，并按照对方当事  
人或者代表人的人数提出副本。

Article 173A petition for appeal shall be made through the People's  
Court which originally heard the case, and the number of duplicate  
copies shall be based on the number of the counterparty litigants  
or the number of the counterparty's representatives. Where a  
litigant files an appeal with the People's Court of second instance

当事人直接向第二审人民法院上诉的，第二审人民法院应当在五日内

directly, the People's Court of second instance shall forward the petition for appeal to the People's Court which originally heard the case within five days.

将上诉状移交原审人民法院。

**第一百七十四条** 原审人民法院收到上诉状，应当在五日内将上诉状副本送达对方当事人，对方当事人在收到之日起十五日内提出答辩状。人民法院应当在收到答辩状之日起五日内将副本送达上诉人。对方当事人不提出答辩状的，不影响人民法院审理。

Article 174 Upon receipt of the petition for appeal, the People's Court which originally heard the case shall serve the duplicate copy of the petition for appeal on the counterparty litigant within five days, the counterparty litigant shall submit a pleading within 15 days from the date of receipt of the petition. The People's Court shall serve the duplicate copy of the pleading on the appellant within five days from the date of receipt of the pleading. Non-submission of pleading by the counterparty litigant will not affect trial of the petition by the People's Court. Upon receipt of the petition for appeal, the People's Court which originally heard the case shall submit the petition for appeal together with all case files and evidence to the People's Court of second instance within five days.

原审人民法院收到上诉状、答辩状，应当在五日内连同全部案卷和证据，报送第二审人民法院。

**第一百七十五条** 第二审人民法院应当对上诉请求的有关事实和适用法律进行审查。

Article 175 The People's Court of second instance shall examine the relevant facts and applicable laws for the appeal request(s).

**第一百七十六条** 第二审人民法院对上诉案件应当开庭审理。经过阅卷、调查和询问当事人，对没有提出新的事实、证据或者理由，人民法院认为不需要开庭审理的，可以不开庭审理。

Article 176 A People's Court of second instance shall conduct a hearing to try an appeal case. Upon examination of case files, investigation and questioning of litigants, where there is no new fact, evidence or reason, and the people's court deems that a hearing is not necessary, the case may be tried without a hearing. The People's Court of second instance may try an appeal case at the court or try the case at the place of occurrence of the case or the location of the People's Court which originally heard the case.

第二审人民法院审理上诉案件，可以在本院进行，也可以到案件发生地或者原审人民法院所在地进行。

**第一百七十七条** 第二审人民法院对上诉案件，经过审理，按照下列情形，分别处理：

(一) 原判决、裁定认定事实清楚，适用法律正确的，以判决、裁定方式驳回上诉，维持原判决、裁定；

Article 177 The People's Court of second instance shall, upon trial of an appeal case, take the following action in accordance with the following circumstances: (1) Where the facts ascertained in the original judgment or ruling are clear, and the application of laws is correct, the appeal shall be rejected by way of a judgment or ruling and the original judgment or ruling shall be upheld;

(二) 原判决、裁定认定事实错误或者适用法律错误的，以判决、裁定方式依法改判、撤销或者变更；

(2) Where the facts ascertained in the original judgment or ruling are wrong or the application of laws is wrong, the original judgment shall be amended, revoked or modified by way of a judgment or ruling;

(三) 原判决认定基本事实不清的，裁定撤销原判决，发回原审人民法院重审，或者查清事实后改判；

(3) Where the basic facts ascertained in the original judgment are unclear, the People's Court of second instance shall rule that the original judgment be revoked, the case shall be remanded to the People's Court which originally heard the case for re-trial, or the original judgment shall be amended upon ascertainment of facts; and

(四) 原判决遗漏当事人或者违法缺席判决等严重违反法定程序的，裁定撤销原判决，发回原审人民法院重审。

(4) Where a litigant is omitted in the original judgment or the judgment in default is passed illegally which violates statutory procedures seriously, the People's Court of second instance shall rule that the original judgment be

原审人民法院对发回重审的案件作出判决后，当事人提起上诉的，第

revoked, and the case shall be remanded to the People's Court which originally heard the case for re-trial.

Where the People's Court which originally heard the case has made a judgment on a remanded case, and the litigants file an appeal, the People's Court of second instance shall not remand the case for re-trial again.

Article 178The People's Court of second instance shall make rulings in all cases for handling of appeal cases against rulings of the People's Court of first instance.

Article 179The People's Court of second instance may carry out mediation in the trial of an appeal case. Where an agreement is reached through mediation, a mediation document shall be prepared; the mediation document shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal. Upon service of the mediation document, the judgment of the People's Court which originally heard the case shall be deemed revoked.

Article 180Prior to announcement of the judgment of the People's Court of second instance, where the appellant applies for withdrawal of appeal, the People's Court of second instance shall rule on whether to grant withdrawal of appeal.

Article 181In addition to the provisions of this Chapter, the general procedures for trial of first instance shall apply to trial of the appeal case by the People's Court of second instance.

Article 182The judgment or ruling of the People's Court of second instance shall be the final judgment or ruling.

Article 183A People's Court trying an appeal case against a judgment shall complete the trial within three months from the date of establishment of case file for the trial of second instance. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required. A People's Court trying an appeal case against a ruling shall make a ruling of final instance within 30 days from the date of establishment of case file for the trial of second instance.

**第一百七十八条 第二审人民法院对不服第一审人民法院裁定的上诉案件的处理，一律使用裁定。**

**第一百七十九条 第二审人民法院审理上诉案件，可以进行调解。调解达成协议，应当制作调解书，由审判人员、书记员署名，加盖人民法院印章。调解书送达后，原审人民法院的判决即视为撤销。**

**第一百八十条 第二审人民法院判决宣告前，上诉人申请撤回上诉的，是否准许，由第二审人民法院裁定。**

**第一百八十二条 第二审人民法院审理上诉案件，除依照本章规定外，适用第一审普通程序。**

**第一百八十三条 人民法院审理对判决的上诉案件，应当在第二审立案之日起三个月内审结。有特殊情况需要延长的，由本院院长批准。**

**人民法院审理对裁定的上诉案件，应当在第二审立案之日起三十日内作出终审裁定。**

#### **第十五章 特别程序**

##### **第一节 一般规定**

**第一百八十四条 人民法院审理选民资格案件、宣告失踪或者宣告死亡案件、认定公民无民事行为能力或者限制民事行为能力案件、认定财产无主案件、确认调解协议案件和实现担保物权案件，适用本章规定。本章没有规定的，适用本法和其他法律的有关规定。**

**第一百八十五条 依照本章程程序审理的案件，实行一审终审。选民资格案件或者重大、疑难的案件，由审判员组成合议庭审理；其他案件由审判员一人独任审理。**

**第一百八十六条 人民法院在依照本章程程序审理案件的过程中，发现本案属于民事权益争议的，应当裁定终结特别程序，并告知利害关系人可以另行起诉。**

**第一百八十七条 人民法院适用特别程序审理的案件，应当在立案之日起三十日内或者公告期满后三十日内审结。有特殊情况需要延长的，由本院院长批准。但审理选民资格的案件除外。**

#### **第二节 选民资格案件**

#### **Chapter 15 — Special Procedures**

##### **Section 1 — General Provisions**

Article 184The provisions of this Chapter shall apply to trial by People's Courts of voter eligibility cases, cases of declared missing person or declared death in absentia, cases of ascertainment of citizens with no capacity for civil conduct or citizens with limited capacity for civil conduct, cases of ascertainment of ownerless property, cases of confirmation of mediation agreement and cases of realisation of security interest. Where this Chapter does not stipulate, the relevant provisions hereof and other laws shall apply. Article 185Cases tried pursuant to the procedures stipulated in this Chapter shall implement trial of first instance being final. Voter eligibility cases, major and complex cases shall be tried by a collegiate bench formed by the judges; other cases shall be tried by one judge.

Article 186Where a People's Court discovers during the process of trial of a case pursuant to the procedures in this Chapter that the case is a dispute over civil rights and interests, the People's Court shall rule on termination of special procedure, and notify the interested parties to file a separate lawsuit.

Article 187The trial of a case for which special procedures are applicable by a People's Court shall be completed within 30 days from the date of establishment of case file or within 30 days from expiry of the public announcement period. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required, except for trial of voter eligibility cases.

#### **Section 2 — Voter Eligibility Cases**

第一百八十八条 公民不服选举委员会对选民资格的申诉所作的处理决定，可以在选举日的五日以前向选区所在地基层人民法院起诉。

**第一百八十九条** 人民法院受理选民资格案件后，必须在选举日前审结。

审理时，起诉人、选举委员会的代表和有关公民必须参加。

人民法院的判决书，应当在选举日前送达选举委员会和起诉人，并通知有关公民。

### 第三节 宣告失踪、宣告死亡案件

**第一百九十条** 公民下落不明满二年，利害关系人申请宣告其失踪的，向下落不明人住所地基层人民法院提出。

申请书应当写明失踪的事实、时间和请求，并附有公安机关或者其他有关机关关于该公民下落不明的书面证明。

**第一百九十一条** 公民下落不明满四年，或者因意外事件下落不明满二年，或者因意外事件下落不明，经有关机关证明该公民不可能生存，利害关系人申请宣告其死亡的，向下落不明人住所地基层人民法院提出。

申请书应当写明下落不明的事实、时间和请求，并附有公安机关或者其他有关机关关于该公民下落不明的书面证明。

**第一百九十二条** 人民法院受理宣告失踪、宣告死亡案件后，应当发出寻找下落不明人的公告。宣告失踪的公告期间为三个月，宣告死亡的公告期间为一年。因意外事件下落不明，经有关机关证明该公民不可能生存的，宣告死亡的公告期间为三个月。

公告期间届满，人民法院应当根据被宣告失踪、宣告死亡的事实是否得到确认，作出宣告失踪、宣告死亡的判决或者驳回申请的判决。

**第一百九十三条** 被宣告失踪、宣告死亡的公民重新出现，经本人或者利害关系人申请，人民法院应当作出新判决，撤销原判决。

**第四节 认定公民无民事行为能力、限制民事行为能力案件**

**第一百九十四条** 申请认定公民无民事行为能力或者限制民事行为能力，由利害关系人或者有关组织向该公民住所

Article 188A citizen who disagrees with a decision made by the Electoral Commission in respect of handling of complaint of voter eligibility may file a lawsuit with the grassroots People's Court at the location of the electoral district five days before the election day.

Article 189Upon acceptance of a voter eligibility case, the People's Court shall complete the trial before the election day. During the trial, the party which files the lawsuit, the representatives of the Electoral Commission and the relevant citizen shall participate.

The judgment letter of the People's Court shall be served on the Electoral Commission and the party which files the lawsuit before the election day and notify the relevant citizen.

### Section 3 — Cases of Declaration of Missing or Death

Article 190Where a citizen has been missing for two years, an interested party may submit an application for declaration of missing to a grassroots People's Court at the place of residence of the missing person. The application form shall state the fact of the missing person, time and request, and be supported by a written certificate of missing person issued by the public security authorities or other relevant authorities in respect of the said citizen.

Article 191Where a citizen has been missing for four years, or has been missing for two years due to an accidental event, or has been missing due to an accidental event, upon certification by the relevant authorities that the citizen is unlikely to be alive, an interested party may submit an application for declaration of death to the grassroots People's Court at the place of residence of the missing person. The application form shall state the fact of the missing person, time and request, and be supported by a written certificate of missing person issued by the public security authorities or other relevant authorities in respect of the said citizen.

Article 192Upon acceptance of a case for declaration of missing person or declaration of death, the People's Court shall make a public announcement on search for missing person. The public announcement period for declaration of missing person shall be three months, the public announcement period for declaration of death shall be one year. Where a citizen has been missing due to an accidental event and upon certification by the relevant authorities that the said citizen is unlikely to be alive, the public announcement period for declaration of death shall be three months. Upon expiry of the public announcement period, the People's Court shall make a judgment on declaration of missing person or declaration of death based on whether the facts for declaration of missing person or declaration of death are confirmed, or make a judgment on rejection of the application.

Article 193Where a citizen who has been declared missing or dead reappears, upon application by the citizen or an interested party, the People's Court shall make a new judgment, and revoke the original judgment.

### Section 4 — Cases of Identification of Citizen with No Capacity for Civil Conduct or Limited Capacity for Civil Conduct

Article 194An application for identification of a citizen with no capacity for civil conduct or limited capacity for civil conduct shall be submitted to the grassroots People's Court at the place of the

地基层人民法院提出。

申请书应当写明该公民无民事行为能力或者限制民事行为能力的事实和根据。

**第一百九十五条** 人民法院受理申请后，必要时应当对被请求认定为无民事行为能力或者限制民事行为能力的公民进行鉴定。申请人已提供鉴定意见的，应当对鉴定意见进行审查。

**第一百九十六条** 人民法院审理认定公民无民事行为能力或者限制民事行为能力的案件，应当由该公民的近亲属为代理人，但申请人除外。近亲属互相推诿的，由人民法院指定其中一人为代理人。该公民健康情况许可的，还应当询问本人的意见。

人民法院经审理认定申请有事实根据的，判决该公民为无民事行为能力或者限制民事行为能力人；认定申请没有事实根据的，应当判决予以驳回。

**第一百九十七条** 人民法院根据被认定为无民事行为能力人、限制民事行为能力人本人、利害关系人或者有关组织的申请，证实该公民无民事行为能力或者限制民事行为能力的原因已经消除的，应当作出新判决，撤销原判决。

**第五节 认定财产无主案件**  
**第一百九十八条** 申请认定财产无主，由公民、法人或者其他组织向财产所在地基层人民法院提出。

申请书应当写明财产的种类、数量以及要求认定财产无主的根据。

**第一百九十九条** 人民法院受理申请后，经审查核实，应当发出财产认领公告。公告满一年无人认领的，判决认定财产无主，收归国家或者集体所有。

**第二百条** 判决认定财产无主后，原财产所有人或者继承人出现，在民法典规定的诉讼时效期间可以对财产提出请求，人民法院审查属实后，应当作出新判决，撤销原判决。

**第六节 确认调解协议案件**  
**第二百零一条** 经依法设立的调解组织调解达成调解协议，申请司法确认的，由双方当事人自调解协议生效之日起三十日内，共同向下列人民法院提出：

(一) 人民法院邀请调解组织开展先行调解的，向作出邀请的人民法

citizen's residence by any interested party or the organisation concerned. The application form shall state the fact and basis that the citizen has no capacity for civil conduct or limited capacity for civil conduct.

Article 195Upon acceptance of an application, the People's Court shall, when necessary, conduct an appraisal on the citizen for whom the application for identification of no capacity for civil conduct or limited capacity for civil conduct is made. Where the applicant has provided an appraisal opinion, the appraisal opinion shall be examined.

Article 196In the trial of a case for identification of a citizen with no capacity for civil conduct or limited capacity for civil conduct by a People's Court, the close relatives of the said citizen other than the applicant shall act as his/her agent. Where the close relatives of the citizen try to shirk responsibilities, the People's Court shall designate one of them to act as the agent. Where the health conditions of the said citizen permit, the People's Court shall seek his/her opinion. Where a People's Court tried the case and held that an application for identification is based on facts, the People's Court shall rule that the citizen has no capacity for civil conduct or limited capacity for civil conduct; where the People's Court held that the application is not based on facts, the People's Court shall rule that the application be rejected.

Article 197Where a People's Court, based on an application by a person held to have no capacity for civil conduct or limited capacity for civil conduct or the application by his/her guardian, confirms that the reason that a citizen has no capacity for civil conduct or limited capacity for civil conduct is eliminated, the People's Court shall make a new judgment and revoke the original judgment.

Section 5 — Cases of Determination of Ownerless Property  
Article 198An application for determination of ownerless property shall be submitted by a citizen, a legal person or an organisation to the grassroots People's Court at the location of the property. The application form shall state the type and quantity of the property and the basis for the request for ascertainment of ownerless property.

Article 199Upon acceptance of an application, the People's Court shall, upon examination and verification, make a public announcement on claim of property. Where the property is not claimed within one year from public announcement, the People's Court shall rule that the property is ownerless and is State-owned or collectively owned.

Article 200Following the judgment that the property is ownerless, the original owner of the property or the successor which appears may make a request for the property within the limitation of action stipulated in the Civil Code, upon examination and verification by the People's Court, a new judgment shall be made and the original judgment shall be revoked.

Section 6 — Cases of Confirmation of A Mediation Agreement  
Article 201"Where a mediation agreement is reached upon mediation by a mediation organisation established pursuant to the law and an application for judicial confirmation is made, both parties to the lawsuit shall submit an application jointly to the following people's court within 30 days from the effective date of the mediation agreement: (1) where a people's court invites a mediation organisation to conduct prior mediation, the application shall be made to the inviting people's court; and

(二) 调解组织自行开展调解的，向当事人住所地、标的物所在地、调解组织所在地的基层人民法院提出；调解协议所涉纠纷应当由中级人民法院管辖的，向相应的中级人民法院提出。

**第二百零二条** 人民法院受理申请后，经审查，符合法律规定的，裁定调解协议有效，一方当事人拒绝履行或者未全部履行的，对方当事人可以向人民法院申请执行；不符合法律规定的，裁定驳回申请，当事人可以通过调解方式变更原调解协议或者达成新的调解协议，也可以向人民法院提起诉讼。

#### 第七节 实现担保物权案件

**第二百零三条** 申请实现担保物权，由担保物权人以及其他有权请求实现担保物权的人依照民法典等法律，向担保财产所在地或者担保物权登记地基层人民法院提出。

**第二百零四条** 人民法院受理申请后，经审查，符合法律规定的，裁定拍卖、变卖担保财产，当事人依据该裁定可以向人民法院申请执行；不符合法律规定的，裁定驳回申请，当事人可以向人民法院提起诉讼。

#### 第十六章 审判监督程序

**第二百零五条** 各级人民法院院长对本院已经发生法律效力的判决、裁定、调解书，发现确有错误，认为需要再审的，应当提交审判委员会讨论决定。

最高人民法院对地方各级人民法院已经发生法律效力的判决、裁定、调解书，上级人民法院对下级人民法院已经发生法律效力的判决、裁定、调解书，发现确有错误的，有权提审或者指令下级人民法院再审。

**第二百零六条** 当事人对已经发生法律效力的判决、裁定，认为有错误的，可以向上一级人民法院申请再审；当事人一方人数众多或者当事人双方为公民的案件，也可以向原审人民法院申请再审。当事人申请再审的，不停止判决、裁定的执行。

**第二百零七条** 当事人的申请符合下列情形之一的，人民法院应当再审：

(2) where a mediation organisation conducts mediation on its own initiative, the application shall be made to the grassroots people's court at the location of the litigant's domicile, the subject matter or the mediation organisation; where the dispute involved in the mediation agreement is subject to the jurisdiction of an intermediate People's Court, the application shall be made to the corresponding intermediate people's court.

Article 202 Upon acceptance of an application, the People's Court shall rule that the mediation agreement is valid upon examination that the application complies with the provisions of the laws; where one party concerned refuses to perform the mediation agreement or where the mediation agreement is not performed fully, the counterparty may apply to the People's Court for enforcement; where the application does not comply with the provisions of the laws, the People's Court shall rule that the application be rejected, the litigants may amend the original mediation agreement through mediation or enter into a new mediation agreement, or file a lawsuit with the People's Court.

#### Section 7 — Cases of Realisation of Security Interest

Article 203 An application for realisation of security interest shall be submitted by the holder of security interest and any other person(s) who has/have the right to request for realisation of security interest to the grassroots People's Court at the location of the secured property or the place of registration of security interest pursuant to the Civil Code and other pertinent laws, etc.

Article 204 Upon acceptance of an application, the People's Court shall, upon examination that the application complies with the provisions of the laws, rule that the secured property be auctioned or sold off, the litigants may apply to the People's Court for enforcement pursuant to the said ruling; where the application does not comply with the provisions of the laws, the People's Court shall rule that the application be rejected, the litigants may file a lawsuit with the People's Court.

#### Chapter 16 — Procedures for Trial Supervision

Article 205 Where the president of a People's Court at any level discovers an error in a judgment letter, ruling document or mediation document of this court which has come into legal effect and deemed that there is a need for re-trial, the matter shall be submitted to the Adjudication Committee for discussion and decision. Where the Supreme People's Court discovers an error in a judgment letter, ruling document or mediation document of a Local People's Court at any level which has come into legal effect or where a higher-level People's Court discovers an error in a judgment letter, ruling document or mediation document of a lower-level People's Court which has come into legal effect, it shall have the right to arraign or order the lower-level People's Court to re-try the case.

Article 206 A litigant who deemed that there is an error in a judgment or ruling which has come into legal effect may apply to the higher-level People's Court for re-trial; for cases for which one party to the lawsuit comprises multiple persons or both parties to the lawsuit are citizens, an application for re-trial may be submitted to the People's Court which originally heard the case. Where the litigants apply for re-trial, enforcement of the judgment or ruling shall continue.

Article 207 Where the application of the litigants satisfies any of the following circumstances, the People's Court shall conduct a re-trial:

(1) There is adequate new evidence to overturn the original judgment or ruling;

- (一) 有新的证据，足以推翻原判决、裁定的；
- (二) 原判决、裁定认定的基本事实缺乏证据证明的；
- (三) 原判决、裁定认定事实的主要证据是伪造的；
- (四) 原判决、裁定认定事实的主要证据未经质证的；
- (五) 对审理案件需要的主要证据，当事人因客观原因不能自行收集，书面申请人民法院调查收集，人民法院未调查收集的；
- (六) 原判决、裁定适用法律确有错误的；
- (七) 审判组织的组成不合法或者依法应当回避的审判人员没有回避的；
- (八) 无诉讼行为能力人未经法定代理人代为诉讼或者应当参加诉讼的当事人，因不能归责于本人或者其诉讼代理人的事由，未参加诉讼的；
- (九) 违反法律规定，剥夺当事人辩论权利的；
- (十) 未经传票传唤，缺席判决的；
- (十一) 原判决、裁定遗漏或者超出诉讼请求的；
- (十二) 据以作出原判决、裁定的法律文书被撤销或者变更的；
- (十三) 审判人员审理该案件时有贪污受贿，徇私舞弊，枉法裁判行
- (2) There is lack of evidence for the basic facts ascertained in the original judgment or ruling;
- (3) The main evidence for the facts ascertained in the original judgment or ruling is forged;
- (4) The main evidence for the facts ascertained in the original judgment or ruling has not been cross-examined;
- (5) Where the litigants are unable to gather the main evidence required for trial of the case due to objective reasons, the litigants have submitted a written application to the People's Court for investigation and gathering of evidence, and the People's Court does not carry out investigation and gathering of evidence;
- (6) The application of laws by the original judgment or ruling is wrong;
- (7) The composition of the trial organisation is illegal or a judge who should abstain from the lawsuit pursuant to the law does not abstain;
- (8) A person with no capacity for litigation action is unable to participate in proceedings as he/she is not represented by a legal representative or a litigant who should participate in proceedings is unable to participate in proceedings due to any reason not attributable to himself/herself or his/her agent ad litem;
- (9) A litigant's right to debate is deprived in violation of the provisions of the laws;
- (10) Judgment in default is made in the absence of a litigant who has not been served a summons;
- (11) The original judgment or ruling has omitted or exceeded a claim;
- (12) The legal document on which the original judgment or ruling is based is revoked or modified; or

为的。

**第二百零八条** 当事人对已经发生法律效力的调解书，提出证据证明调解违反自愿原则或者调解协议的内容违反法律的，可以申请再审。经人民法院审查属实的，应当再审。

**第二百零九条** 当事人对已经发生法律效力的解除婚姻关系的判决、调解书，不得申请再审。

**第二百一十条** 当事人申请再审的，应当提交再审申请书等材料。人民法院应当自收到再审申请书之日起五日内将再审申请书副本发送对方当事人。对方当事人应当自收到再审申请书副本之日起十五日内提交书面意见；不提交书面意见的，不影响人民法院审查。人民法院可以要求申请人和对方当事人补充有关材料，询问有关事项。

**第二百一十一条** 人民法院应当自收到再审申请书之日起三个月内审查，符合本法规定的，裁定再审；不符合本法规定的，裁定驳回申请。有特殊情况需要延长的，由本院院长批准。

因当事人申请裁定再审的案件由中级人民法院以上的人民法院审理，但当事人依照本法第二百零六条的规定选择向基层人民法院申请再审的除外。最高人民法院、高级人民法院裁定再审的案件，由本院再审或者交其他人民法院再审，也可以交原审人民法院再审。

**第二百一十二条** 当事人申请再审，应当在判决、裁定发生法律效力后六个月内提出；有本法第二百零七条第一项、第三项、第十二项、第十三项规定情形的，自知道或者应当知道之日起六个月内提出。

**第二百一十三条** 按照审判监督程序决定再审的案件，裁定中止原判决、裁定、调解书的执行，但追索赡养费、扶养费、抚养费、抚恤金、医疗费用、劳动报酬等案件，可以不中止执行。

**第二百一十四条** 人民法院按照审判监督程序再审的案件，发生法律效力的判决、裁定是由第一审法院作出的，按照第一审程序审理，所作的判决、裁定，当事人可以上诉；发生法律效力的判决、裁定是由第二审法院作出的，按照第二审程序审理，所作的判决、裁定，是发生法律效力的判决、裁定；上级人民法院按照审判监督程序提审的，按照第二审程序审理，所作的判决、裁定是发生法律效力的

(13) The judge(s) has/have committed corruption, favouritism or perverted the law in making a judgment during the trial of the case.

Article 208Where a litigant presents evidence to prove that the mediation for a mediation document which has come into legal effect has violated the principle of voluntary participation or the contents of the mediation agreement have violated the laws, an application for re-trial may be submitted. Upon examination and verification by the People's Court, a re-trial shall be carried out.

Article 209For a judgment or mediation document for dissolution of marriage which has come into legal effect, the litigants shall not apply for re-trial.

Article 210A litigant applying for re-trial shall submit materials such as an application form for re-trial, etc. The People's Court shall serve the duplicate copy of the application form for re-trial to the counterparty within five days from the date of receipt of the application form for re-trial. The counterparty shall submit a written opinion within 15 days from the date of receipt of the duplicate copy of the application form for re-trial; non-submission of a written opinion shall not affect examination by the People's Court. The People's Court may require the applicant and the counterparty to supplement the relevant materials and enquire into the relevant matters.

Article 211The People's Court shall conduct examination within three months from the date of receipt of the application form for re-trial, where the application complies with the provisions hereof, the People's Court shall rule on re-trial; where the application does not comply with the provisions hereof, the People's Court shall rule that the application be rejected. Under special circumstances where there is a need for an extension of time, the approval of the president of the court is required. Cases ruled to be re-tried in accordance with an application by the litigants shall be tried by an intermediate People's Court or above, except for applications for re-trial of cases submitted by litigants to grassroots People's Courts pursuant to the provisions of Article 206 hereof. Cases ruled by the Supreme People's Court or a higher People's Court to be re-tried shall be re-tried by the Supreme People's Court or the higher People's Court or handed over to another People's Court for re-trial, or remanded to the People's Court which originally heard the case for re-trial.

Article 212A litigant applying for re-trial shall submit the application within six months from a judgment or ruling taking legal effect; under the circumstances stipulated in item (1), (3), (12), or (13) of Article 207 hereof, the application shall be submitted within six months from the date on which the litigant becomes or should become aware of the circumstances.

Article 213In the event of a case for which re-trial is decided pursuant to the procedure for trial supervision, a ruling on suspension of enforcement of the original judgment, ruling, mediation document shall be made, however, for cases of recourse of alimony, payment of maintenance, payment of upbringing, pension, medical fees, labour remuneration, etc., enforcement may not be suspended.

Article 214In the event of a case subject to re-trial by a People's Court pursuant to the procedure for trial supervision, where the judgment or ruling which has come into legal effect is made by the court of first instance, the case shall be tried pursuant to the procedure for trial of first instance, the litigants may file an appeal for the judgment or ruling; where the judgment or ruling which has come into legal effect is made by the court of second instance, the case shall be tried pursuant to the procedure for trial of second instance, the judgment or ruling is a judgment or ruling which has come into legal effect; where the case is arraigned by a higher-

判决、裁定。

人民法院审理再审案件，应当另行组成合议庭。

**第二百一十五条** 最高人民检察院对各级人民法院已经发生法律效力的判决、裁定，上级人民检察院对下级人民法院已经发生法律效力的判决、裁定，发现有本法第二百零七条规定情形之一的，或者发现调解书损害国家利益、社会公共利益的，应当提出抗诉。

地方各级人民检察院对同级人民法院已经发生法律效力的判决、裁定，发现有本法第二百零七条规定情形之一的，或者发现调解书损害国家利益、社会公共利益的，可以向同级人民法院提出检察建议，并报上级人民检察院备案；也可以提请上级人民检察院向同级人民法院提出抗诉。

各级人民检察院对审判监督程序以外的其他审判程序中审判人员的违法行为，有权向同级人民法院提出检察建议。

**第二百一十六条** 有下列情形之一的，当事人可以向人民检察院申请检察建议或者抗诉：

(一) 人民法院驳回再审申请的；

(二) 人民法院逾期未对再审申请作出裁定的；

(三) 再审判决、裁定有明显错误的。

人民检察院对当事人的申请应当在三个月内进行审查，作出提出或者不予提出检察建议或者抗诉的决定。

当事人不得再次向人民检察院申请检察建议或者抗诉。

**第二百一十七条** 人民检察院因履行法律监督职责提出检察建议或者抗诉的需要，可以向当事人或者案外人调查核实有关情况。

**第二百一十八条** 人民检察院提

level People's Court pursuant to the procedure for trial supervision, the case shall be tried pursuant to the procedure for trial of second instance, the judgment or ruling is a judgment or ruling which has come into legal effect. A People's Court trying a re-trial case shall form a collegiate bench separately.

Article 215Where the Supreme People's Procuratorate discovers that a judgment or ruling of a People's Court at any level which has come into legal effect falls under any of the circumstances stipulated in Article 207 hereof or discovers that a mediation document harms national interest or public interest, or where a higher-level People's Procuratorate discovers that a judgment or ruling of a lower-level People's Court which has come into legal effect falls under any of the circumstances stipulated in Article 207 hereof or discovers that a mediation document harms national interest or public interest, a protest shall be made. Where a People's Procuratorate at any level at any locality discovers that a judgment or ruling made by a People's Court of counterpart level which has come into legal effect falls under any of the circumstances stipulated in Article 207 hereof, or discovers that a mediation document harms national interest and public interest, the People's Procuratorate may make an attorney recommendation to the People's Court of counterpart level, and file record with the higher-level People's Procuratorate; or request the higher-level People's Procuratorate to make a protest to the People's Court of counterpart level.

The People's Procuratorate at any level shall have the right to make an attorney recommendation to the People's Court of counterpart level for any illegal act of a judge committed in any trial procedure other than the procedure for trial supervision.

Article 216Under any of the following circumstances, a litigant may apply to a People's Procuratorate for attorney recommendation or make a protest: (1) A People's Court has rejected an application for re-trial;

(2) A People's Court has not made a ruling on an application for re-trial within the stipulated period; or

(3) There is an obvious mistake in a re-trial judgment or ruling.

A People's Procuratorate shall examine an application from a litigant within three months and decide whether to make an attorney recommendation or protest. The litigant shall not apply to the People's Procuratorate again for an attorney recommendation or protest.

Article 217A People's Procuratorate may investigate into or verify with a litigant or a non-party to the case the relevant information for the need to make an attorney recommendation or protest for performance of legal supervision duties.

Article 218In the event of a case for which a protest is made by a

出抗诉的案件，接受抗诉的人民法院应当自收到抗诉书之日起三十日内作出再审的裁定；有本法第二百零七条第一项至第五项规定情形之一的，可以交下一级人民法院再审，但经该下一级人民法院再审的除外。

**第二百一十九条** 人民检察院决定对人民法院的判决、裁定、调解书提出抗诉的，应当制作抗诉书。

**第二百二十条** 人民检察院提出抗诉的案件，人民法院再审时，应当通知人民检察院派员出席法庭。

#### 第十七章 督促程序

**第二百二十二条** 债权人请求债务人给付金钱、有价证券，符合下列条件的，可以向有管辖权的基层人民法院申请支付令：

(一) 债权人与债务人没有其他债务纠纷的；

(二) 支付令能够送达债务人的。

申请书应当写明请求给付金钱或者有价证券的数量和所根据的事实、

证据。

**第二百二十三条** 债权人提出申请后，人民法院应当在五日内通知债权人是否受理。

**第二百二十四条** 人民法院受理申请后，经审查债权人提供的事实、证据，对债权债务关系明确、合法的，应当在受理之日起十五日内向债务人发出支付令；申请不成立的，裁定予以驳回。

债务人应当自收到支付令之日起十五日内清偿债务，或者向人民法院提出书面异议。

债务人在前款规定的期间不提出异议又不履行支付令的，债权人可以向人民法院申请执行。

**第二百二十五条** 人民法院收到债务人提出的书面异议后，经审查，异议成立的，应当裁定终结督促程序，支付令自行失效。

支付令失效的，转入诉讼程序，但申请支付令的一方当事人不同意提起诉讼的除外。

#### 第十八章 公示催告程序

**第二百二十六条** 按照规定可以背书转让的票据持有人，因票据被盗、遗

失、灭失，向人民法院申请公示催告的，由收到申请的人民法院负责审理。人民法院收到申请后，必须在三日内立案，并将申请书副本通知申请人。人民法院应当组成合议庭，于收到申请后的五日内发出公告，公告自发布之日起六十日内有效。公告期间届满，申请人凭判决书向付款人要求支付票款的，付款人应当付款。

**第二百二十七条** 人民法院收到公示催告申请后，应当立即通知付款人停止支付，并在三日内发出公告，公告自发布之日起六十日内有效。付款人收到法院停止支付的命令后，不得向持票人付款，但付款人善意且无重大过失付款的除外。

**第二百二十八条** 公示催告期间届满，无人申报权利的，人民法院应当根据申请人的申请，作出判决，宣告票据无效。判决应当公告，并通知付款人。判决生效后，申请人有权凭判决书向票据支付地的基层人民法院申请公示催告。

#### Chapter 17 — Procedures of Supervision and Urge

**Article 221** Where a creditor requesting for payment of money and securities by a debtor satisfies the following criteria, the creditor may apply to a grassroots People's Court which has jurisdiction for an order of payment: (1) There is no other debt dispute between the creditor and the debtor; or

(2) The order of payment can be served on the debtor.

The application form shall state the amount of the money or the quantity of securities for which payment is requested and the facts and evidence on which the request is based.

**Article 222** Upon submission of an application by a creditor, the People's Court shall notify the creditor within five days on whether the application is accepted.

**Article 223** Upon acceptance of an application by a People's Court, upon examination of the facts and evidence provided by the creditor, where the creditor-debtor relationship is clear and legitimate, an order of payment shall be issued to the debtor within 15 days from the date of acceptance of the application; where the application is not justified, the People's Court shall rule that the application be rejected. The debtor shall settle the debt or submit a written objection to the People's Court within 15 days from the date of receipt of the order of payment.

Where the debtor failed to submit an objection or perform the order of payment within the period stipulated in the preceding paragraph, the creditor may apply to the People's Court for enforcement.

**Article 224** Upon receipt of the written objection from the debtor, the People's Court shall rule on termination of procedure of supervision and urge upon examination and conclusion that the objection is justified, and the order of payment shall become void automatically. Where an order of payment becomes void, the case shall enter into litigation procedure, except where one party to the application for order of payment disagrees with filing of lawsuit.

#### Chapter 18 — Procedures of Public Invitation to Assert Claims

**Article 225** A holder of a note which can be endorsed or transferred pursuant to the provisions may apply to a grassroots People's

失或者灭失，可以向票据支付地的基层人民法院申请公示催告。依照法律规定可以申请公示催告的其他事项，适用本章规定。

申请人应当向人民法院递交申请书，写明票面金额、发票人、持票人、背书人等票据主要内容和申请的理由、事实。

**第二百二十六条** 人民法院决定受理申请，应当同时通知支付人停止支付，并在三日内发出公告，催促利害关系人申报权利。公示催告的期间，由人民法院根据情况决定，但不得少于六十日。

**第二百二十七条** 支付人收到人民法院停止支付的通知，应当停止支付，至公示催告程序终结。

公示催告期间，转让票据权利的行为无效。

**第二百二十八条** 利害关系人应当在公示催告期间向人民法院申报。

人民法院收到利害关系人的申报后，应当裁定终结公示催告程序，并通知申请人和支付人。

申请人或者申报人可以向人民法院起诉。

**第二百二十九条** 没有人申报的，人民法院应当根据申请人的申请，作出判决，宣告票据无效。判决应当公告，并通知支付人。自判决公告之日起，申请人有权向支付人请求支付。

**第二百三十条** 利害关系人因正当理由不能在判决前向人民法院申报的，自知道或者应当知道判决公告之日起一年内，可以向作出判决的人民法院起诉。

### 第三编 执行程序

#### 第十九章 一般规定

**第二百三十一条** 发生法律效力的民事判决、裁定，以及刑事判决、裁定中的财产部分，由第一审人民法院或者与第一审人民法院同级的被执行的财产所在地人民法院执行。

法律规定由人民法院执行的其他法律文书，由被执行人住所地或者被执行的财产所在地人民法院执行。

**第二百三十二条** 当事人、利害关系人认为执行行为违反法律规定的，可

Court at the place of payment of the note for public invitation to assert claims in the event that the note is stolen, lost or destroyed. The provisions of this Chapter shall apply to other matters for which an application for public invitation to assert claims may be made pursuant to the provisions of the law. The applicant shall submit an application form to a People's Court, stating the main contents of the note such as the par value, drawer, bearer, endorser, etc. and the reason and facts of the application.

Article 226A People's Court shall, upon decision on acceptance of an application, simultaneously notify the payor to stop payment, issue a public announcement within three days, and urge interested parties to declare their rights. The period of public invitation to assert claims shall be decided by a People's Court in accordance with the circumstances but shall not be less than 60 days.

Article 227 Upon receipt of the notice on stopping payment from the People's Court, the payor shall stop payment, until the procedure of public invitation to assert claims is concluded. During the period of public invitation to assert claims, the transfer of rights pertaining to the note shall be invalid.

Article 228 Interested parties shall declare to the People's Court during the period of public invitation to assert claims. Upon receipt of declaration by the interested parties, the People's Court shall rule on termination of the procedure of public invitation to assert claims and notify the applicant and the payor.

The applicant or the declarants may file a lawsuit with a People's Court.

Article 229 Where there is no declarant, the People's Court shall make a judgment in accordance with the applicant's application to declare that the bill is invalid. The judgment shall be announced in a public announcement and the payor shall be notified. With effect from the date of public announcement of the judgment, the applicant shall have the right to request for payment by the payor.

Article 230 Where an interested party is unable to declare to the People's Court before the judgment due to a proper reason, the interested party may file a lawsuit with the People's Court which makes the judgment within one year from the date on which the interested party is aware or should be aware of the date of public announcement of the judgment.

### PART III ENFORCEMENT PROCEDURES

#### Chapter 19 — General Provisions

Article 231 A civil judgment or ruling which has come into legal effect and the property portion of a criminal judgment or ruling shall be enforced by the People's Court of first instance or a People's Court at the location of the enforced property at the counterpart level of the People's Court of first instance. Any other legal documents to be enforced by a People's Court pursuant to the provisions of the laws shall be enforced by a People's Court at the location of the enforcee's residence or the location of the enforced property.

Article 232 Where a litigant or an interested party deemed that the act of enforcement is in violation of the provisions of the law, the

以向负责执行的人民法院提出书面异议。当事人、利害关系人提出书面异议的，人民法院应当自收到书面异议之日起十五日内审查，理由成立的，裁定撤销或者改正；理由不成立的，裁定驳回。当事人、利害关系人对裁定不服的，可以自裁定送达之日起十日内向上一级人民法院申请复议。

litigant or interested party may submit a written objection to the People's Court which is in charge of enforcement. Where a litigant or an interested party submits a written objection, the People's Court shall conduct examination within 15 days from the date of receipt of the written objection, where the reason is valid, the People's Court shall rule on revocation or correction; where the reason is not valid, the People's Court shall rule that the application be rejected. Where the litigant or the interested party disagrees with the ruling, an application for review shall be submitted to the higher-level People's Court within 10 days from the date of service of the ruling.

**第二百三十三条** 人民法院自收到申请执行书之日起超过六个月未执行的，申请执行人可以向上一级人民法院申请执行。上一级人民法院经审查，可以责令原人民法院在一定期限内执行，也可以决定由本院执行或者指令其他人民法院执行。

Article 233Where a People's Court does not carry out enforcement within six months from the date of receipt of an application for enforcement, the applicant for enforcement may apply to a higher-level People's Court for enforcement. Upon examination by the higher-level People's Court, the higher-level People's Court may order the original People's Court to carry out enforcement within a stipulated period, or the higher-level People's Court may decide to carry out enforcement or order another People's Court to carry out enforcement.

**第二百三十四条** 执行过程中，案外人对执行标的提出书面异议的，人民法院应当自收到书面异议之日起十五日内审查，理由成立的，裁定中止对该标的的执行；理由不成立的，裁定驳回。案外人、当事人对裁定不服，认为原判决、裁定错误的，依照审判监督程序办理；与原判决、裁定无关的，可以自裁定送达之日起十五日内向人民法院提起诉讼。

Article 234During the enforcement process, where a non-party to the case submits a written objection in respect of the subject matter of enforcement, the People's Court shall conduct examination within 15 days from the date of receipt of the written objection, where the reason is valid, the People's Court shall rule on suspension of enforcement of the subject matter; where the reason is not valid, the People's Court shall rule that the application be rejected. Where the non-party to the case or the litigant disagrees with the ruling or deems that there is an error in the original judgment or ruling, the matter shall be dealt with pursuant to the procedure for trial supervision; whether it is unrelated to the original judgment or ruling, a lawsuit may be filed with a People's Court within 15 days from the date of service of the ruling.

**第二百三十五条** 执行工作由执行员进行。

Article 235Enforcement shall be carried out by enforcement officers. When adopting mandatory enforcement measures, an enforcement officer shall present his/her credential. Upon completion of enforcement, a written record of the status of enforcement shall be kept and the relevant personnel onsite shall sign or affix seal thereon.

采取强制执行措施时，执行员应当出示证件。执行完毕后，应当将执行情况制作笔录，由在场的有关人员签名或者盖章。

A People's Court may establish an enforcement agency based on the needs.

**人民法院根据需要可以设立执行机构。**

Article 236Where the enforcee or the enforced property is at another locality, a local People's Court may be entrusted to carry out enforcement on behalf. Upon receipt of the entrustment letter, the entrusted People's Court shall commence enforcement within 15 days and shall not refuse. Upon completion of enforcement, the entrusting People's Court shall be promptly notified of the enforcement outcome in writing; where the enforcement is not completed within 30 days, the entrusting People's Court shall also be notified of the status of enforcement in writing. Where the entrusted People's Court does not carry out enforcement within 15 days from the date of receipt of the entrustment letter, the entrusting People's Court may request the higher-level People's Court of the entrusted People's Court to order the entrusted People's Court to carry out enforcement.

受委托人民法院自收到委托函件之日起十五日内不执行的，委托人民法院可以请求受委托人民法院的上级

Article 237During the enforcement process, where both parties concerned settle and reach an agreement, the enforcement officer shall include the contents of the agreement in the written record, both parties concerned shall sign and affix seal thereon. Where

人民法院指令受委托人民法院执行。

**第二百三十七条** 在执行中，双方当事人自行和解达成协议的，执行员应当将协议内容记入笔录，由双方当事人签名或者盖章。

申请执行人因受欺诈、胁迫与被执行人达成和解协议，或者当事人不履行和解协议的，人民法院可以根据当事人的申请，恢复对原生效法律文书的执行。

**第二百三十八条** 在执行中，被执行人向人民法院提供担保，并经申请执行人同意的，人民法院可以决定暂缓执行及暂缓执行的期限。被执行人逾期仍不履行的，人民法院有权执行被执行人的担保财产或者担保人的财产。

**第二百三十九条** 作为被执行人的公民死亡的，以其遗产偿还债务。作为被执行人的法人或者其他组织终止的，由其权利义务承受人履行义务。

**第二百四十条** 执行完毕后，据以执行的判决、裁定和其他法律文书确有错误，被人民法院撤销的，对已被执行的财产，人民法院应当作出裁定，责令取得财产的人返还；拒不返还的，强制执行。

**第二百四十二条** 人民法院制作的调解书的执行，适用本编的规定。

**第二百四十二条** 人民检察院有权对民事执行活动实行法律监督。

#### 第二十章 执行的申请和移送

**第二百四十三条** 发生法律效力的民事判决、裁定，当事人必须履行。一方拒绝履行的，对方当事人可以向人民法院申请执行，也可以由审判员移送执行员执行。

调解书和其他应当由人民法院执行的法律文书，当事人必须履行。一方拒绝履行的，对方当事人可以向人民法院申请执行。

**第二百四十四条** 对依法设立的仲裁机构的裁决，一方当事人不履行的，对方当事人可以向有管辖权的人民法院申请执行。受申请的人民法院应当执行。

被申请人提出证据证明仲裁裁决有下列情形之一的，经人民法院组成合议庭审查核实，裁定不予执行：

(一) 当事人在合同中没有订有仲裁条款或者事后没有达成书面仲裁协议的；

(二) 裁决的事项不属于仲裁协议的范围或者仲裁机构无权仲裁的；

the applicant for enforcement is deceived or coerced into entering into a settlement agreement with the enforcee, or the litigants do not perform the settlement agreement, the People's Court may, pursuant to the application of a litigant, resume enforcement of the original legal document which has taken effect.

**Article 238** During the enforcement process, where the enforcee provides guarantee to the People's Court, and upon consent of the applicant for enforcement, the People's Court may decide on deferment of enforcement and the period for deferment of enforcement. Where the enforcee does not perform within the stipulated period, the People's Court shall have the right to enforce the enforcee's secured property or the guarantor's property.

**Article 239** Where the enforcee who is a citizen has passed away, his/her estate shall be used to repay the debt. Where the enforcee who is a legal person or an organisation is terminated, the bearer of its rights and obligations shall perform the obligations.

**Article 240** Upon completion of enforcement, where the judgment or ruling or any other legal document on which enforcement is based has an error and is revoked by the People's Court, the People's Court shall make a ruling on the enforced property and order the party which obtains the property to return the property; where the party refuses to return the property, mandatory enforcement shall be carried out.

**Article 241** The provisions of this Book shall apply to enforcement of mediation documents prepared by People's Courts.

**Article 242** People's Procuratorates shall have the right to implement legal supervision for civil enforcement.

#### Chapter 20 — Application for and Transfer of Enforcement

**Article 243** The parties concerned shall perform the civil judgment or ruling which has come into legal effect. Where one party refuses to perform, the counterparty may apply to the People's Court for enforcement, or the judge may assign an enforcement officer to carry out enforcement. With respect to a mediation document and any other legal document which should be enforced by the People's Court, the parties concerned shall perform the mediation document and legal document. Where one party refuses to perform, the counterparty may apply to the People's Court for enforcement.

**Article 244** With respect to an arbitral award of an arbitration organisation established pursuant to the law, where one party does not perform, the counterparty may apply to a People's Court which has jurisdiction for enforcement. The People's Court accepting the application shall carry out enforcement. Where the respondent presents evidence to prove that the arbitral award falls under any of the following circumstances, upon examination and verification by the collegiate bench formed by the People's Court, a ruling on non-enforcement shall be made:

(1) The parties concerned have not included an arbitration clause in the contract or have not entered into a written arbitration agreement subsequently;

(2) The arbitration matter does not fall under the scope of the arbitration agreement or the arbitration organisation has no right to carry out arbitration;

(三)仲裁庭的组成或者仲裁的程序违反法定程序的；

(四)裁决所根据的证据是伪造的；

(五)对方当事人向仲裁机构隐瞒了足以影响公正裁决的证据的；

(六)仲裁员在仲裁该案时有贪污受贿，徇私舞弊，枉法裁决行为的。

人民法院认定执行该裁决违背社会公共利益的，裁定不予执行。

裁定书应当送达双方当事人和仲裁机构。

仲裁裁决被人民法院裁定不予执行的，当事人可以根据双方达成的书面仲裁协议重新申请仲裁，也可以向人民法院起诉。

**第二百四十五条** 对公证机关依法赋予强制执行效力的债权文书，一方当事人不履行的，对方当事人可以向有管辖权的人民法院申请执行，受申请的人民法院应当执行。

公证债权文书确有错误的，人民法院裁定不予执行，并将裁定书送达双方当事人和公证机关。

**第二百四十六条** 申请执行的期间为二年。申请执行时效的中止、中断，适用法律有关诉讼时效中止、中断的规定。

前款规定的期间，从法律文书规定履行期间的最后一日起计算；法律文书规定分期履行的，从最后一期履行期限届满之日起计算；法律文书未

(3) The composition of the arbitral tribunal or the arbitration procedures is/are in violation of statutory procedures;

(4) The evidence on which the arbitral award is based is forged;

(5) The counterparty has concealed evidence which has an impact on making a fair arbitral award from the arbitration organisation; or

(6) The arbitrators have committed bribery or favouritism or perverted the law in making the arbitral award when carrying out arbitration of the case.

Where the People's Court rules that enforcement of the arbitral award is against the public interest, a ruling of non-enforcement shall be made.

A ruling document shall be served on both parties to the arbitration and the arbitration organisation.

Where non-enforcement of an arbitral award is ruled by a People's Court, the parties concerned may apply for arbitration again based on the written arbitration agreement between both parties or file a lawsuit with a People's Court.

Article 245 Where one party concerned does not perform a debt instrument which has been vested with mandatory enforceability by a notary organisation pursuant to the law, the counterparty may apply to a People's Court which has jurisdiction for enforcement, the People's Court which accepts the application shall carry out enforcement. Where there is an error in the notarised debt instrument, the People's Court shall rule on non-enforcement, and shall serve the ruling document on both parties concerned and the notary organisation.

Article 246 The time frame for application for enforcement shall be two years. The provisions of the applicable laws on suspension and termination of limitation of action shall apply to suspension and termination of limitation period for application for enforcement. The period stipulated in the preceding paragraph shall commence from the last day of the performance period stipulated in the legal document; where the legal document stipulates performance in phases, the period shall commence from the date of expiration of the time limit for the last performance; where the legal document does not stipulate the performance period, the period shall commence from the effective date of the legal document.

规定履行期间的，从法律文书生效之日起计算。

**第二百四十七条** 执行员接到申请执行书或者移交执行书，应当向被执行人发出执行通知，并可以立即采取强制执行措施。

#### 第二十一章 执行措施

**第二百四十八条** 被执行人未按执行通知履行法律文书确定的义务，应当报告当前以及收到执行通知之日前一年的财产情况。被执行人拒绝报告或者虚假报告的，人民法院可以根据情节轻重对被执行人或者其法定代表人、有关单位的主要负责人或者直接责任人员予以罚款、拘留。

**第二百四十九条** 被执行人未按执行通知履行法律文书确定的义务，人民法院有权向有关单位查询被执行人的存款、债券、股票、基金份额等财产情况。人民法院有权根据不同情形扣押、冻结、划拨、变价被执行人的财产。人民法院查询、扣押、冻结、划拨、变价的财产不得超出被执行人应当履行义务的范围。

人民法院决定扣押、冻结、划拨、变价财产，应当作出裁定，并发出协助执行通知书，有关单位必须办理。

**第二百五十条** 被执行人未按执行通知履行法律文书确定的义务，人民法院有权扣留、提取被执行人应当履行义务部分的收入。但应当保留被执行人及其所扶养家属的生活必需费用。

人民法院扣留、提取收入时，应 当作出裁定，并发出协助执行通知 书，被执行人所在单位、银行、信用 合作社和其他有储蓄业务的单位必须 办理。

**第二百五十一条** 被执行人未按执行通知履行法律文书确定的义务，人民法院有权查封、扣押、冻结、拍卖、变卖被执行人应当履行义务部分的财产。但应当保留被执行人及其所扶养家属的生活必需品。

采取前款措施，人民法院应当作 出裁定。

**第二百五十二条** 人民法院查封、扣押财产时，被执行人是公民的，应当通知被执行人或者他的成年家属到场；被执行人是法人或者其他组织的，应当通知其法定代表人或者主要负责人到场。拒不到场的，不影响执行。被执行人是公民的，其工作单位或者财产所在地的基层组织应当派人参加。

Article 247 Upon receipt of an application for enforcement or a notice of handover of enforcement, the enforcement officer shall issue a notice of enforcement to the enforcee and may forthwith adopt mandatory enforcement measures.

#### Chapter 21 — Enforcement Measures

Article 248 Where an enforcee has not performed the obligations determined in the legal document pursuant to the notice of enforcement, the enforcee shall report the current status of property and the status of property in the year preceding the date of receipt of the notice of enforcement. Where the enforcee refuses to report or makes a false report, the People's Court may impose a fine or detention on the enforcee or its legal representative or the key person-in-charge or directly accountable personnel of the relevant organisation based on the extent of the circumstances.

Article 249 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to enquire about the enforcee's properties such as deposits, debentures, shares, unit trusts, etc from the relevant organisations. The People's Court shall have the right to seize, freeze, appropriate or sell the enforcee's properties based on the circumstances. The properties enquired, seized, frozen, appropriated or sold by the People's Court shall not exceed the scope of performance of obligations of the enforcee. Where the People's Court decides on seizure, freezing, appropriation or sale of properties, the People's Court shall make a ruling and issue a "Notice on Assistance for Enforcement", the relevant organisations shall act accordingly.

Article 250 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to withhold or withdraw the portion of the enforcee's income which corresponds to the performance of obligations, but shall retain the requisite living expenses of the enforcee and his/her dependants. A People's Court shall make a ruling at the time of withholding or withdrawal of income, and issue a "Notice on Assistance for Enforcement", the enforcee's employer, the bank(s), the credit cooperative(s) and other organisations with savings business shall act accordingly.

Article 251 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to seize, confiscate, freeze, auction or sell the enforcee's properties which correspond to the performance of obligations, but shall retain the necessities of the enforcee and his/her dependants. For adoption of the measures in the preceding paragraph, a People's Court shall make a ruling.

Article 252 When a People's Court seizes or confiscates properties, where the enforcee is a citizen, the People's Court shall notify the enforcee or his/her adult family members to be present; where the enforcee is a legal person or an organisation, the People's Court shall notify the legal representative of the legal person or the key person-in-charge of the organisation to be present. Absence of the said person(s) shall not affect enforcement. Where the enforcee is a citizen, his/her employer or the grassroots organisation at the location of the properties shall assign personnel to participate in

对被查封、扣押的财产，执行员必须造具清单，由在场人签名或者盖章后，交给被执行人一份。被执行人是公民的，也可以交他的成年家属一份。

**第二百五十三条** 被查封的财产，执行员可以指定被执行人负责保管。因被执行人的过错造成的损失，由被执行人承担。

**第二百五十四条** 财产被查封、扣押后，执行员应当责令被执行人在指定期间履行法律文书确定的义务。被执行人逾期不履行的，人民法院应当拍卖被查封、扣押的财产；不适用于拍卖或者当事人双方同意不进行拍卖的，人民法院可以委托有关单位变卖或者自行变卖。国家禁止自由买卖的物品，交有关单位按照国家规定的价格收购。

**第二百五十五条** 被执行人不履行法律文书确定的义务，并隐匿财产的，人民法院有权发出搜查令，对被执行人及其住所或者财产隐匿地进行搜查。

采取前款措施，由院长签发搜查令。

**第二百五十六条** 法律文书指定交付的财物或者票证，由执行员传唤双方当事人当面交付，或者由执行员转交，并由被交付人签收。

有关单位持有该项财物或者票证的，应当根据人民法院的协助执行通知书转交，并由被交付人签收。

有关公民持有该项财物或者票证的，人民法院通知其交出。拒不交出的，强制执行。

**第二百五十七条** 强制迁出房屋或者强制退出土地，由院长签发公告，责令被执行人在指定期间履行。被执行人逾期不履行的，由执行员强制执行。

强制执行时，被执行人是公民的，应当通知被执行人或者他的成年家属到场；被执行人是法人或者其他组织的，应当通知其法定代表人或者其他主要负责人到场。拒不到场的，不影响执行。被执行人是公民的，其工作

the enforcement. The enforcement officer shall prepare a list of the seized and confiscated properties, the persons on-site shall sign or affix seal thereon, and a copy shall be given to the enforcee. Where the enforcee is a citizen, a copy may be given to his/her adult family member.

Article 253The enforcement officer may appoint the enforcee to be responsible for safekeeping the seized properties, the enforcee shall bear the losses resulting from his/her mistake.

Article 254Upon seizure and confiscation of properties, the enforcement officer shall order the enforcee to perform the obligations determined in the legal documents within the designated period. Where the enforcee refuses to perform the obligations within the stipulated period, the People's Court shall auction or sell the seized and confiscated properties; where the properties are not suitable to be put up for auction or both parties concerned agree not to put the properties up for auction, the People's Court may entrust the relevant organisations to sell the properties or the People's Court may arrange to sell the properties. Items prohibited by the State to be traded freely shall be handed to the relevant organisations for acquisition in accordance with the prices stipulated by the State.

Article 255Where an enforcee does not perform the obligations determined in the legal document, and conceals the properties, the People's Court shall have the right to issue a search warrant, and conduct search on the enforcee and his/her residence or the place where the properties are concealed. For adoption of the measures in the preceding paragraph, the president of the court shall issue a search warrant.

Article 256For properties or bills to be delivered as designated by a legal document, the enforcement officer shall summon both parties concerned for face-to-face delivery or forwarded by the enforcement officer and the party taking delivery shall acknowledge receipt. Where the properties or bills are held by the relevant organisations, the properties or bills shall be forwarded pursuant to the "Notice on Assistance for Enforcement" of the People's Court, and the party taking delivery shall acknowledge receipt.

Where the properties or bills are held by the relevant citizen, the People's Court shall notify the citizen to hand over. Where the relevant citizen refuses to hand over, mandatory enforcement shall be carried out.

Article 257For mandatory eviction from a building or mandatory eviction from a land parcel, the president of the court shall issue a public announcement to order the enforcee to perform eviction during the stipulated period. Where the enforcee failed to perform eviction during the stipulated period, the enforcement officer shall carry out mandatory enforcement. During mandatory enforcement, where the enforcee is a citizen, the enforcee or his/her adult family member shall be notified to be present; where the enforcee is a legal person or an organisation, its legal representative or the key person-in-charge shall be notified to be present. Absence of the notified person shall not affect enforcement. Where the enforcee is a citizen, his/her employer or the grassroots organisation at the location of the housing or land parcel shall assign personnel to participate in enforcement. The enforcement officer shall prepare written record of the status of mandatory enforcement, the persons on-site shall sign or affix seal thereon.

单位或者房屋、土地所在地的基层组织应当派人参加。执行员应当将强制执行情况记入笔录，由在场人签名或者盖章。

强制迁出房屋被搬出的财物，由人民法院派人运至指定处所，交给被执行人。被执行人是公民的，也可以交给他的成年家属。因拒绝接收而造成的损失，由被执行人承担。

**第二百五十八条** 在执行中，需要办理有关财产权证照转移手续的，人民法院可以向有关单位发出协助执行通知书，有关单位必须办理。

**第二百五十九条** 对判决、裁定和其他法律文书指定的行为，被执行人未按执行通知履行的，人民法院可以强制执行或者委托有关单位或者其他人完成，费用由被执行人承担。

**第二百六十条** 被执行人未按判决、裁定和其他法律文书指定的期间履行给付金钱义务的，应当加倍支付迟延履行期间的债务利息。被执行人未按判决、裁定和其他法律文书指定的期间履行其他义务的，应当支付迟延履行金。

**第二百六十二条** 人民法院采取本法第二百四十九条、第二百五十条、第二百五十一条规定的执行措施后，被执行人仍不能偿还债务的，应当继续履行义务。债权人发现被执行人有其他财产的，可以随时请求人民法院执行。

**第二百六十二条** 被执行人不履行法律文书确定的义务的，人民法院可以对其采取或者通知有关单位协助采取限制出境，在征信系统记录、通过媒体公布不履行义务信息以及法律规定的其他措施。

## 第二十二章 执行中止和终结

**第二百六十三条** 有下列情形之一的，人民法院应当裁定中止执行：

(一) 申请人表示可以延期执行的；

(二) 案外人对执行标的提出确有理由的异议的；

(三) 作为一方当事人的公民死亡，需要等待继承人继承权利或者承担义务的；

Properties removed from a mandatory eviction building shall be transported to designated premises by the personnel assigned by the People's Court and handed over to the enforcee. Where the enforcee is a citizen, the properties may be handed over to his/her adult family member(s). Losses arising from refused acceptance shall be borne by the enforcee.

**Article 258** During the enforcement process, where there is a need to complete the formalities for transfer of the relevant property rights certificate, the People's Court may issue a "Notice on Assistance for Enforcement" to the relevant organisation(s), the relevant organisation(s) shall act accordingly.

**Article 259** Where an enforcee does not perform the acts stipulated by a judgment, ruling or any other legal document pursuant to the notice of enforcement, the People's Court may carry out mandatory enforcement or entrust the relevant organisation or any other person to carry out enforcement, and the enforcee shall bear the expenses.

**Article 260** Where an enforcee does not perform the obligations for money payment within the period stipulated in a judgment, ruling or any other legal document, the enforcee shall pay an amount double the interest on the debts during the deferred performance period. Where an enforcee does not perform other obligations during the period stipulated in the judgment, ruling or any other legal document, the enforcee shall pay a deferred performance fine.

**Article 261** Upon adoption of enforcement measures stipulated in Article 249, Article 250 or Article 251 hereof by a People's Court, where an enforcee is still unable to repay the debts, the obligations shall continue to be performed. Where a creditor becomes aware that the enforcee has other properties, the creditor may request to a People's court at any time for enforcement.

**Article 262** Where an enforcee does not perform the obligations determined in the legal document, the People's Court may adopt or notify the relevant authorities to assist in adoption of measures such as restricting the enforcee from leaving China, announcement of information on non-performance of obligations through the creditworthiness system records or the media and other measures stipulated by the laws.

## Chapter 22 — Suspension and Termination of Enforcement

**Article 263** Under any of the following circumstances, the People's Court shall rule that enforcement be suspended: (1) The applicant has indicated that the enforcement can be deferred;

(2) A non-party to the case raised an objection to the subject matter of enforcement and the objection is justified;

(3) A citizen who is a party has passed away, and there is a need to wait for his/her heir to succeed his/her rights or bear his/her obligations;

(4) A legal person or an organisation who is a party has its operation terminated and the bearer of its rights and

(四)作为一方当事人的法人或者其他组织终止，尚未确定权利义务承受人的；

(五)人民法院认为应当中止执行的其他情形。

中止的情形消失后，恢复执行。

第二百六十四条 有下列情形之一的，人民法院裁定终结执行：

(一)申请人撤销申请的；

(二)据以执行的法律文书被撤销的；

(三)作为被执行人的公民死亡，无遗产可供执行，又无义务承担人的；

(四)追索赡养费、扶养费、抚养费案件的权利人死亡的；

(五)作为被执行人的公民因生活困难无力偿还借款，无收入来源，又丧失劳动能力的；

(六)人民法院认为应当终结执行的其他情形。

第二百六十五条 中止和终结执行的裁定，送达当事人后立即生效。

#### 第四编 涉外民事诉讼程序的特别规定

##### 第二十三章 一般原则

第二百六十六条 在中华人民共和国领域内进行涉外民事诉讼，适用本编规定。本编没有规定的，适用本法其他有关规定。

第二百六十七条 中华人民共和国缔结或者参加的国际条约同本法有不同规定的，适用该国际条约的规定，但中华人民共和国声明保留的条款除外。

第二百六十八条 对享有外交特权与豁免的外国人、外国组织或者国际组织提起的民事诉讼，应当依照中华人民共和国有关法律和中华人民共和国缔结或者参加的国际条约的规定办理。

第二百六十九条 人民法院审理涉外民事案件，应当使用中华人民共和国通用的语言、文字。当事人要求提供翻译

obligations has not been determined; or

(5) Any other circumstances under which a People's Court deemed that enforcement should be suspended.

Upon elimination of the circumstances for suspension, enforcement shall resume.

Article 264 Under any of the following circumstances, the People's Court shall rule that enforcement be terminated: (1) The applicant has revoked the application;

(2) The legal documents on which the enforcement is based are revoked;

(3) A citizen who is an enforcee has passed away and does not have estate which can be enforced upon, and there is no duty bearer;

(4) The rights holder in a case for recourse of alimony, payment of maintenance, payment of upbringing has passed away;

(5) A citizen who is an enforcee has financial difficulties and is unable to repay borrowings, has no source of income and loses the ability to work; or

(6) Any other circumstances under which a People's Court deemed that enforcement should be terminated.

Article 265 A ruling on suspension or termination of enforcement shall take effect upon service on the party concerned.

#### PART IV — SPECIAL PROVISIONS ON FOREIGN-RELATED CIVIL PROCEDURES

##### Chapter 23 — General Principles

Article 266 The provisions of this Book shall apply to foreign-related civil lawsuits carried out in the People's Republic of China. Where this Book does not stipulate, other relevant provisions hereof shall apply.

Article 267 Where the provisions of an international treaty concluded or participated by the People's Republic of China differ from the provisions hereof, the provisions of the international treaty shall apply, except for clauses for which the People's Republic of China declared reservation.

Article 268 Civil lawsuits filed by foreigners, foreign organisations or international organisations that enjoy diplomatic privileges and immunities shall be handled pursuant to the provisions of the relevant laws of the People's Republic of China and the international treaties concluded or participated by the People's Republic of China.

Article 269 People's Courts trying foreign-related civil lawsuits shall use language or text commonly used in the People's Republic of China. Where a litigant requests for provision of translation,

translation may be provided and the expenses shall be borne by the litigant.

**第二百七十条** 外国人、无国籍人、外国企业和组织在人民法院起诉、应诉，需要委托律师代理诉讼的，必须委托中华人民共和国的律师。

**第二百七十一条** 在中华人民共和国领域内没有住所的外国人、无国籍人、外国企业和组织委托中华人民共和国律师或者其他代理人代理诉讼，从中华人民共和国领域外寄交或者托交的授权委托书，应当经所在国公证机关证明，并经中华人民共和国驻该国使领馆认证，或者履行中华人民共和国与该所在国订立的有关条约中规定的证明手续后，才具有效力。

Article 270 Foreigners, stateless persons, foreign enterprises and organisations filing a lawsuit or countersuit with a People's Court that are required to entrust a lawyer to participate in proceedings shall entrust a lawyer of the People's Republic of China.

Article 271 Where a foreigner, stateless person or foreign enterprise or organisation without residence in the People's Republic of China entrusts a lawyer or any other person in the People's Republic of China to participate in proceedings or mails or entrusts submission of the power of attorney from regions outside the People's Republic of China, the power of attorney shall be effective upon notarisation by a notary organisation in that country and authentication by the embassy or consulate of the People's Republic of China in that country, or performance of authentication formalities stipulated in the relevant treaty concluded between the People's Republic of China and the country.

#### Chapter 24 — Jurisdiction

**第二百七十二条** 因合同纠纷或者其他财产权益纠纷，对在中华人民共和国领域内没有住所的被告提起的诉讼，如果合同在中华人民共和国领域内签订或者履行，或者诉讼标的物在中华人民共和国领域内，或者被告在中华人民共和国领域内有可供扣押的财产，或者被告在中华人民共和国领域内设有代表机构，可以由合同签订地、合同履行地、诉讼标的物所在地、可供扣押财产所在地、侵权行为地或者代表机构住所地人民法院管辖。

Article 272 With respect to a lawsuit filed against a Defendant without residence in the People's Republic of China for a contract dispute or any other property rights dispute, if the contract is executed or performed in the People's Republic of China, or the subject matter of litigation is located in the People's Republic of China, or the Defendant has properties in the People's Republic of China which can be seized, or the Defendant has established a representative organisation in the People's Republic of China, a People's Court at the place of execution of contract, the place of performance of contract, the location of the subject matter of litigation, the location of the properties which can be seized, the place of occurrence of the tortious act or the location of the representative organisation shall have jurisdiction.

**第二百七十三条** 因在中华人民共和国履行中外合资经营企业合同、中外合作经营企业合同、中外合作勘探开发自然资源合同发生纠纷提起的诉讼，由中华人民共和国人民法院管辖。

Article 273 With respect to a lawsuit filed for disputes arising from performance of Sino-foreign equity joint venture enterprise contract, Sino-foreign cooperative joint venture enterprise contract, Sino-foreign cooperative exploration and exploitation of natural resources contract in the People's Republic of China, the People's Courts of the People's Republic of China shall have jurisdiction.

#### 第二十五章 送达、期间

**第二百七十四条** 人民法院对在中华人民共和国领域内没有住所的当事人送达诉讼文书，可以采用下列方式：

(一) 依照受送达人在所在国与中华人民共和国缔结或者共同参加的国际条约中规定的方式送达；

#### Chapter 25 — Service of Process and Period

Article 274 Service of litigation documents by People's Courts on litigants without a domicile in the People's Republic of China may adopt the following methods: (1) Service pursuant to the methods stipulated in an international treaty between the country of the party being served and the People's Republic of China or an international treaty for which the country of the party being served and the People's Republic of China are both participants;

(二) 通过外交途径送达；

(2) Service through diplomatic channels;

(三) 对具有中华人民共和国国籍的受送达，可以委托中华人民共和国驻受送达所在国的使领馆代为送达；

(3) Where the party being served is of Chinese nationality, the People's Court may entrust the embassy or consulate of the People's Republic of China based in the country where the party being served resides to serve on behalf;

(四) 向受送达委托的有权代其接受送达的诉讼代理人送达；

(4) Serving the documents on the agent ad litem entrusted by the party being served who has the right to receive service of documents on its behalf;

(五) 向受送达人在中华人民共和国领域内设立的代表机构或者有权

(5) Serving the documents on the representative organisation established in the People's Republic of China

接受送达的分支机构、业务代办人送达；

(六) 受送达人在所在国的法律允许邮寄送达的，可以邮寄送达，自邮寄之日起满三个月，送达回证没有退回，但根据各种情况足以认定已经送达的，期间届满之日视为送达；

(七) 采用传真、电子邮件等能够确认受送达入收悉的方式送达；

(八) 不能用上述方式送达的，公告送达，自公告之日起满三个月，即视为送达。

by the party being served or the branch or business agent of the party being served which has the right to receive service of documents;

(6) Where the laws of the country where the party being served resides permit service of documents by mail, the documents may be served by mail; upon expiry of a three-month period from the date of mailing and the acknowledgement of service is not being returned, but the documents may be deemed served based on the circumstances, the documents shall be deemed served on the date of expiry of the period;

(7) Service via a method for which receipt by the party being served can be confirmed such as facsimile, email, etc.; and

(8) Where the documents cannot be served via the aforesaid methods, the documents shall be served by way of a public announcement and shall be deemed served upon expiry of a three-month period from the date of public announcement.

**第二百七十五条** 被告在中华人民共和国领域内没有住所的，人民法院应当将起诉状副本送达被告，并通知被告在收到起诉状副本后三十日内提出答辩状。被告申请延期的，是否准许，由人民法院决定。

Article 275With respect to a Defendant without a domicile in the People's Republic of China, the People's Court shall serve the duplicate copy of the indictment on the Defendant, and notify the Defendant to submit a pleading within 30 days from receipt of the duplicate copy of the indictment. Where the Defendant applies for an extension of time, the People's Court shall decide whether to grant an extension of time.

**第二百七十六条** 在中华人民共和国领域内没有住所的当事人，不服第一审人民法院判决、裁定的，有权在判决书、裁定书送达之日起三十日内提起上诉。被上诉人在收到上诉状副本后，应当在三十日内提出答辩状。当事人不能在法定期间提起上诉或者提出答辩状，申请延期的，是否准许，由人民法院决定。

Article 276Where a litigant without residence in the People's Republic of China disagrees with the judgment or ruling of the People's Court of first instance, the litigant shall have the right to file an appeal within 30 days from the date of service of the judgment letter or ruling document. Upon receipt of the duplicate copy of the petition for appeal, the appellee shall submit a pleading within 30 days. Where the litigant is unable to file an appeal or submit a pleading within the statutory period and applies for an extension of time, the People's Court shall decide whether to grant an extension of time.

**第二百七十七条** 人民法院审理涉外民事案件的期间，不受本法第一百五十二条、第一百八十三条规定的限制。

Article 277The period for trial of foreign-related civil cases by People's Courts shall not be subject to the restrictions stipulated in Article 152 and Article 183 hereof.

## 第二十六章 仲裁

**第二百七十八条** 涉外经济贸易、运输和海事中发生的纠纷，当事人在合同中订有仲裁条款或者事后达成书面仲裁协议，提交中华人民共和国涉外仲裁机构或者其他仲裁机构仲裁的，当事人不得向人民法院起诉。

## Chapter 26 — Arbitration

Article 278With respect to disputes arising in foreign economic relations and trade and foreign-related transport and maritime activities, where the parties concerned have included an arbitration clause in the contract or a written arbitration agreement is reached subsequently for submission of the dispute to a foreign-related arbitration organisation of the People's Republic of China or any other arbitration organisation for arbitration, the parties concerned shall not file a lawsuit with a People's Court. Where the parties concerned have not included an arbitration clause in the contract or no written arbitration agreement is reached subsequently, the parties concerned may file a lawsuit with a People's Court.

当事人在合同中没有订有仲裁条款或者事后没有达成书面仲裁协议

的，可以向人民法院起诉。

**第二百七十九条** 当事人申请采取保全的，中华人民共和国的涉外仲裁机构应当将当事人的申请，提交被申请人住所地或者财产所在地的中级人民法院裁定。

**第二百八十条** 经中华人民共和国涉外仲裁机构裁决的，当事人不得向人民法院起诉。一方当事人不履行仲裁裁决的，对方当事人可以向被申请人住所地或者财产所在地的中级人民法院申请执行。

**第二百八十二条** 对中华人民共和国涉外仲裁机构作出的裁决，被申请人提出证据证明仲裁裁决有下列情形之一的，经人民法院组成合议庭审查核实，裁定不予执行：

(一) 当事人在合同中没有订有仲裁条款或者事后没有达成书面仲裁协议的；

(二) 被申请人没有得到指定仲裁员或者进行仲裁程序的通知，或者由于其他不属于被申请人负责的原因未能陈述意见的；

(三) 仲裁庭的组成或者仲裁的程序与仲裁规则不符的；

(四) 裁决的事项不属于仲裁协议的范围或者仲裁机构无权仲裁的。

人民法院认定执行该裁决违背社会公共利益的，裁定不予执行。

**第二百八十二条** 仲裁裁决被人民法院裁定不予执行的，当事人可以根据双方达成的书面仲裁协议重新申请仲裁，也可以向人民法院起诉。

## 第二十七章 司法协助

**第二百八十三条** 根据中华人民共和国缔结或者参加的国际条约，或者按照互惠原则，人民法院和外国法院可以相互请求，代为送达文书、调查取证以及进行其他诉讼行为。

外国法院请求协助的事项有损于中华人民共和国的主权、安全或者社

会公共利益的，人民法院不予执行。

**第二百八十四条** 请求和提供司法协助，应当依照中华人民共和国缔结或者参加的国际条约所规定的途径进行；没

Article 279Where a party concerned applies for preservation, the foreign-related arbitration organisation of the People's Republic of China shall forward the application of the party concerned to an intermediate People's Court at the location of the respondent's residence or the location of the properties for ruling.

Article 280Upon ruling by a foreign-related arbitration organisation of the People's Republic of China, the parties concerned shall not file a lawsuit with a People's Court. Where a party concerned does not perform the arbitral award, the counterparty may apply to an intermediate People's Court at the location of the respondent's residence or the location of the properties for enforcement.

Article 281For an arbitral award made by a foreign-related arbitration organisation of the People's Republic of China, where the respondent presents evidence to prove that the arbitral award falls under any of the following circumstances, upon examination and verification by the collegiate bench formed by the People's Court that the assertion is true, the People's Court shall rule on non-enforcement: (1) The parties concerned have not included an arbitration clause in the contract or reached a written arbitration agreement subsequently;

(2) The respondent has not received a notice from the designated arbitrators or notice on arbitration procedure, or the respondent is unable to make representation due to any reason not attributable to the respondent;

(3) The composition of the arbitral tribunal or the arbitration procedure does not comply with the arbitration rules; or

(4) The arbitration matter does not fall under the scope of the arbitration agreement or the arbitration organisation has no right to carry out arbitration.

Where a People's Court deemed that enforcement of the arbitral award violates public interest, the People's Court shall rule on non-enforcement.

Article 282Where a People's Court rules on non-enforcement of an arbitral award, the parties concerned may apply for arbitration again pursuant to the written arbitration agreement reached by both parties, or file a lawsuit with a People's Court.

## Chapter 27 — Judicial Assistance

Article 283Pursuant to the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, a People's Court and a foreign court may request each other to carry out service of documents on behalf, investigation and collection of evidence and any other litigation acts. Where a request by a foreign court for assistance is prejudicial to the sovereignty, security or public interest of the People's Republic of China, the People's Court shall refuse to enforce.

Article 284Request for and provision of judicial assistance shall be carried out via the channels stipulated in the international treaty concluded or participated by the People's Republic of China; where

有条约关系的，通过外交途径进行。

**外国驻中华人民共和国的使领馆可以向该国公民送达文书和调查取证，但不得违反中华人民共和国的法律，并不得采取强制措施。**

除前款规定的情况外，未经中华人民共和国主管机关准许，任何外国机关或者个人不得在中华人民共和国领域内送达文书、调查取证。

**第二百八十五条 外国法院请求人民法院提供司法协助的请求书及其所附文件，应当附有中文译本或者国际条约规定的其他文字文本。**

人民法院请求外国法院提供司法协助的请求书及其所附文件，应当附有该国文字译本或者国际条约规定的其他文字文本。

**第二百八十六条 人民法院提供司法协助，依照中华人民共和国法律规定的程序进行。外国法院请求采用特殊方式的，也可以按照其请求的特殊方式进行，但请求采用的特殊方式不得违反中华人民共和国法律。**

**第二百八十七条 人民法院作出的发生法律效力的判决、裁定，如果被执行人或者其财产不在中华人民共和国领域内，当事人请求执行的，可以由当事人直接向有管辖权的外国法院申请承认和执行，也可以由人民法院依照中华人民共和国缔结或者参加的国际条约的规定，或者按照互惠原则，请求外国法院承认和执行。**

**中华人民共和国涉外仲裁机构作出的发生法律效力的仲裁裁决，当事人请求执行的，如果被执行人或者其财产不在中华人民共和国领域内，应当由当事人直接向有管辖权的外国法院申请承认和执行。**

**第二百八十八条 外国法院作出的发生法律效力的判决、裁定，需要中华人民共和国人民法院承认和执行的，可以由当事人直接向中华人民共和国有管辖权的中级人民法院申请承认和执行，也可以由外国法院依照该国与中华人民共和国缔结或者参加的国际条约的规定，或者按照互惠原则，请求人民法院承认和执行。**

**第二百八十九条 人民法院对申**

there is no treaty relations, request for and provision of judicial assistance shall be carried out via diplomatic channels. An embassy or consulate of a foreign country based in the People's Republic of China may serve documents on a citizen of the foreign country and carry out investigation and collection of evidence, but shall not violate the laws of the People's Republic of China and shall not adopt mandatory measures.

Except for the circumstances stipulated in the preceding paragraph, no foreign agency or individual shall carry out service of documents, investigation and collection of evidence in the People's Republic of China without the consent by the relevant administrative authorities of the People's Republic of China.

Article 285A request from a foreign court for a People's Court to provide judicial assistance and the appendices thereto shall be attached with a Chinese translation or any other language version stipulated by the international treaty. A request from a People's Court for a foreign court to provide judicial assistance and the appendices thereto shall be attached with a translation of the request into the country's language or any other language version stipulated by the international treaty.

Article 286 People's Courts shall provide judicial assistance in accordance with the procedures stipulated by the laws of the People's Republic of China. Where a foreign court requests for adoption of a special method, the requested special method may be adopted, provided that the requested special method shall not violate the laws of the People's Republic of China.

Article 287 With respect to a judgment or ruling made by a People's Court which has come into legal effect, where the enforcee or its properties is/are not located in the People's Republic of China, and the parties concerned request for enforcement, the parties concerned may submit an application directly to a foreign court which has jurisdiction for ratification and enforcement, or the People's Court may, pursuant to the provisions of the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, request for ratification and enforcement by the foreign court. With respect to an arbitral award made by a foreign-related arbitration organisation of the People's Republic of China which has come into legal effect for which the parties concerned request for enforcement, where the enforcee or its properties is/are not located in the People's Republic of China, the parties concerned shall submit an application directly to a foreign court which has jurisdiction for ratification and enforcement.

Article 288 Where a judgment or ruling made by a foreign court which has come into legal effect requires ratification and enforcement by a People's Court of the People's Republic of China, the parties concerned may submit an application directly to an intermediate People's Court of the People's Republic of China which has jurisdiction for ratification and enforcement, or the foreign court may, pursuant to the provisions of the international treaty concluded or participated by the country and the People's Republic of China or in accordance with the principle of reciprocity, request for ratification and enforcement by the People's Court.

Article 289 For a judgment or ruling made by a foreign court which

请或者请求承认和执行的外国法院作出的发生法律效力的判决、裁定，依照中华人民共和国缔结或者参加的国际条约，或者按照互惠原则进行审查后，认为不违反中华人民共和国法律的基本原则或者国家主权、安全、社会公共利益的，裁定承认其效力，需要执行的，发出执行令，依照本法的有关规定执行。违反中华人民共和国法律的基本原则或者国家主权、安全、社会公共利益的，不予承认和执行。

has come into legal effect for which ratification and enforcement is applied or requested, where a People's Court concludes, upon examination pursuant to the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, that the basic principle of the laws of the People's Republic of China or the sovereignty, security or public interest of the State is not violated, the People's Court shall rule on ratification of the validity; where there is a need for enforcement, an enforcement order shall be issued and enforced pursuant to the relevant provisions hereof. Where the People's Court deemed that the basic principle of the laws of the People's Republic of China or the sovereignty, security or public interest of the State is violated, the judgment or ruling made by the foreign court shall not be ratified and enforced.

Article 290Where an arbitral award of an overseas arbitration organisation requires ratification and enforcement by a People's Court of the People's Republic of China, the parties concerned shall submit an application directly to an intermediate People's Court at the location of the enforcee's residence or the location of the enforcee's properties, the People's Court shall handle the matter pursuant to the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity.

Article 291This Law shall be effective from the date of promulgation. Repealing simultaneously the Civil Procedure Law of the People's Republic of China (for Trial Implementation).



扫一扫，手机阅读更方便